

COUNCIL MEETING

JULY 6, 2016

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, July 6, 2016 at 8:32 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser (*present at 8:32 a.m.*)
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Kagawa moved for approval of the agenda as circulated, seconded by Councilmember Chock, and carried by a vote of 6:0:1 (*Councilmember Hooser was excused*).

MINUTES of the following meetings of the Council:

June 1, 2016 Council Meeting
June 8, 2016 Public Hearing re: Bill No. 2632

(*Councilmember Hooser was noted as present.*)

Councilmember Kagawa moved to approve the Minutes as circulated, seconded by Councilmember Kuali'i, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

INTERVIEW:

BOARD OF WATER SUPPLY:

- Beth A. Tokioka – Term ending 12/31/2018

Council Chair Rapozo: Thank you very much. Beth, if you could come up. As we do with all our nominees, if you could just take a few minutes to tell us about yourself and then we will open it up for questions. We do have a copy of your application. With that, you can proceed.

BETH A. TOKIOKA: Thank you very much. *Aloha* and good morning. My name is Beth Tokioka. I am honored to be considered to serve on the Board of Water Supply for the County of Kaua'i. I have known all of you for a number of years, but I would like to take a few minutes to introduce myself and share some

of my thoughts on what my goals would be as a member of the Board of Water Supply. I moved to Kaua'i in 1992 and I currently reside in Puhi. I have been here for twenty-four (24) years. I currently work for Syngenta Hawai'i, LLC in Kekaha as the Community Outreach Manager. When I first moved to Kaua'i, I worked in the visitor industry for two (2) years before I accepted a position with Maryanne Kusaka when she was elected Mayor in 1994. After had she was reelected in 1998, I became the Public Information Officer, which I did for four (4) years. When Mayor Bryan Baptiste was elected in 2002, I decided to leave county government at that time, and I accepted a position with the Transportation Security Administration (TSA) as they were rolling out the TSA at Lihue Airport. I spent about nine (9) months there. Believe it or not, I actually missed working in county government. I missed the close association with the community. The federal government is very different. When Mayor Baptiste offered for me to come back as the Director of Economic Development at that time in 2003, I jumped at that chance to come back. I spent five (5) years at the Office of Economic Development (OED). That was a great experience working with the business community and learning more about what their needs were. As we all know, Mayor Baptiste passed away in 2008. When Mayor Carvalho was elected Mayor later that year, he asked me to be his Director of Communications. I did that for six (6) years. After almost twenty (20) years with the County of Kaua'i, much longer than I expected to be there when I first started, I just decided it was time to move back to the private sector, and I accepted my current position a little over a year ago.

I just wanted to make a personal note that when I first took the job with the County, I was very new to the island. I had never worked in government service. I really had no idea what I was getting into, but I am so forever grateful for that experience because it really changed my life. To be able to serve under three (3) Mayors and work with numerous Councilmembers over the years was a true privilege and gave me a chance to serve the community in a way I never could have otherwise and it really has made me a better person. Also, it taught me many valuable lessons along the way that I think would help me in a position such as this as a member of Board of Water Supply. It taught me how to be a good listener, how to have an open mind, the importance of follow-up, how to work through bureaucracy so that we can get to results, and I think most importantly, how to open up effective lines of communication between government and the people that we serve. I am no longer a public servant, but those skills serve me well every day. They say, "You can take the girl out of public service, but you cannot take public service out of the girl." I think it is just part of who I am now thankfully and gratefully.

I am thrilled at this opportunity to play an important role in an important entity such as the Board of Water Supply. I have a lot to learn about the current issues before the Board. I have been doing a little bit of my own due diligence so I have some understanding of some of the major issues that they are facing, but I know how the Board works and how it relates to other agencies of government and the public. There are basically three (3) areas that I think that I would focus on as a member of the Board. First, obviously would be the basic making sure that the Department operates efficiently and in accordance with a good financial plan. Secondly, we have to ensure that the Department is providing excellent customer service. For me, that is not just to the public at-large, but that is internally as well. I think internal customer service is just as important that departments are working well together, that employees are supportive and respectful, and that we are getting the job done internally as well as we can. Third, is to make sure that the department

is collaborating externally with other departments of the County, with other agencies, and that the Board of Water Supply is at the table when plans are being developed, if appropriate, so that plans are not developed that are not achievable if the Department of Water is to play a role.

(Councilmember Kagawa was noted as not present.)

Ms. Tokioka: I think it is really important for the Board to be integrated and collaborating as much as possible. I think that also helps the Board to be more sensitive to what is happening in the greater community and not just focused on the internal workings of the Board of Water Supply. With all of that said, I thank you for your consideration. Again, it would be an honor to serve in this capacity, and I am happy to answer any questions that you might have.

Council Chair Rapozo: Thank you very much. Do we have any questions for Beth? Councilmember Yukimura.

Councilmember Yukimura: Hi Beth. I do not think we have ever gotten as many letters of support on any other appointee then we have with you. I think that is a real testimony to the level of respect that there is out in community for you.

Ms. Tokioka: Thank you.

Councilmember Yukimura: I know that once when you were leaving, I stood as part of a standing ovation to you because of the work you have done from the way you created the Kaua'i Made/Kaua'i Grown program to how you handle the community host benefit issues for many years. Those were really stellar examples of your work. So I really appreciate that. I also appreciate the goals you have set forth for the Board of Water Supply and I concur with them. I am really glad that you would be interested in that. The only place that I would have questions about is on the potential conflict of interest. Since Grove Farm Company, LLC owns a lot of water system or at least has issues with water, the question is whether Syngenta is leasing any lands from Grove Farm Company, LLC so that if something came up from Grove Farm Company, LLC, whether you would recuse yourself?

Ms. Tokioka: I think in any situation like that, I think any member of any board needs to consult with the County Attorney and determine if the conflict exists. I have a lot of trust in Mauna Kea and his staff. Absolutely, as with any board member, most of us have private employers and we have to be mindful of those potential conflicts. Certainly if that were to arise and it were seen to be a conflict, I would recuse myself, absolutely.

(Councilmember Kagawa was noted as present.)

Councilmember Yukimura: That is good. Thank you. I think the actual arbitrator of ethics would be the Board of Ethics. They usually advise us to go to the Board of Ethics.

Ms. Tokioka: Absolutely.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Thank you. Are there any other questions?
Councilmember Kagawa.

Councilmember Kagawa: First of all, Beth, thank you for submitting your name and being willing to serve. One of the concerns I had with the Board of Water Supply was the most recent issue that they took up with raising the hook-up charge from six thousand dollars (\$6,000) to fifteen thousand dollars (\$15,000). My concern with that was that it is a large jump at once. I would rather see something maybe six thousand dollars (\$6,000) goes up one thousand dollars (\$1,000) a year until we hit fifteen thousand dollars (\$15,000). The question from the Board of Water was who subsidizes the gap? I would say obviously the ratepayers would subsidize it until it hits. I just thought it was too large a jump. Would you be willing to relook at that issue? Do you see problems with that nine thousand dollar (\$9,000) jump in one (1) year?

Ms. Tokioka: I was following that as well and I know that is a huge leap. I understand the reasons why. I know there was a study that was done and that is the number that was determined to be the breakeven where the meter would actually pay for itself. I understand that has been approved, so it is in place right now.

Councilmember Kagawa: Yes.

Ms. Tokioka: I think the Board would have to reconsider it, and I also know that they are currently talking about some type of an allowance for affordable housing. That is definitely on the table at this point. I think, yes. I mean, in my mind, I know we have to pay our bills and I know we have to cover our costs, but we have to do it in a way that we do not shoot ourselves in the foot especially when it comes to affordable housing because you can achieve that net zero with affordable housing by not building any. If you raise it that high and no affordable housing is being built, then yes, you are not losing money, but we are not achieving our goal and that is where I think the collaboration with other departments and agencies is really important. I think that I do not know what the possibility at this point in bringing the entire Facilities Reserve Charge (FRC) back to the table, but it is certainly something that I want to be looking at and definitely look forward to being in the conversation that is ongoing right now about affordable housing.

Councilmember Kagawa: You kind of hit the nail on the head for me. A nine thousand dollar (\$9,000) jump is not a concern for the rich newcomers that purchase property. I am also concerned that just to look at it as helping affordable housing, meaning low-income.

Ms. Tokioka: Right.

Councilmember Kagawa: To me, that may not be enough. I would like to see the middle class also, because a lot of time the middle class is also living paycheck to paycheck. Once you are approved, I hope that maybe you can expand that to also include not only low income, but the middle class.

Ms. Tokioka: Yes.

Councilmember Kagawa: I will be supporting your nomination. Thank you.

Ms. Tokioka: Thank you.

Council Chair Rapozo: Thank you. Are there any other questions?
Councilmember Yukimura.

Councilmember Yukimura: On that particular issue, if the middle class or even the affordable housing projects do not pay for it, then who pays for it?

Ms. Tokioka: I think that is the discussion that has to be had. I would want to dig into the financials of the department. I understand that there are surpluses at the department. You certainly do not want to spend down your entire surplus, but there would have to be ways to look at that. I think that just throwing that number onto an affordable housing development is going to have a chilling effect on it. We have to be creative. I do not know that all options have been looked at. I am hoping that we can be very creative and look at more options as to how that could possibly be financed or covered.

Councilmember Yukimura: As my Affordable Housing Advisory Committee has been working on this issue, one (1) of the things that has come up, but we have not fully investigated is the fact for County housing projects, which would seem the neediest in terms of some waivers of development fees, there is a developer's fee that is quite extensive. I have been looking at the difference between that fee for nonprofits and for-profits. There is some leverage there and it does not get passed on to the families who qualify for affordable housing.

Ms. Tokioka: Right.

Councilmember Yukimura: It is quite a complex picture to look at.

Ms. Tokioka: Yes.

Councilmember Yukimura: I hope we can look carefully because as long as it does not stop the building of affordable housing.

Ms. Tokioka: Correct.

Councilmember Yukimura: Otherwise the ratepayers may have to pay for it, other ratepayers or the future ratepayers, our kids.

Ms. Tokioka: Exactly. As I said, I understand why they made that decision. I know there was a study that was done and not second-guessing them. I was not there for the discussion. I am not here to criticize the decision that was made. From my point of view, I think we should explore more options at this point. I really think it is going to be very difficult. As Councilmember Kagawa pointed out too, very rightly so, it is not just affordable housing. There is that gap group there. So there are other homebuyers that possibly will be impacted and not be able to afford.

Councilmember Yukimura: In that case, it will be passed on.

Ms. Tokioka: Yes.

Council Chair Rapozo: Are there any other questions?
Councilmember Hooser.

Councilmember Hooser: Thank you, Council Chair Rapozo. Good morning.

Ms. Tokioka: Good morning.

Councilmember Hooser: I want to echo some of what Councilmember Yukimura had said earlier about the years of service to the County and the great work that you have done on many levels in the community and the County over the years. I want to thank you for that. I have some concerns regarding the conflict of interest types of issues. The company that you represent, Syngenta, has been involved in numerous legal actions, hundreds if you would, against other municipalities around the nation for their products contaminating water supplies. Kaua'i County was the recipient of a very small settlement. The total settlement was over one hundred million dollars (\$100,000,000) nationally for Syngenta's alleged or any way they settled for contaminating water supplies. The purity of the water is obviously one of the huge concerns or responsibilities of this office. When it comes to decisions around water testing for pesticides or chemicals that your company uses or sells, would you recuse yourself from those decisions as well?

Ms. Tokioka: I guess I would need to know the exact circumstances. If it was determined that was a conflict, then absolutely I would. As pointed out, I was corrected that the Board of Ethics would be the place to go for that. I would not want to jeopardize my service on the Board by making a misstep in that way. I think right now the department has its protocols in place. I do not know that the Board would be involved in any changes of that type, but absolutely. At any point where it looked like there might be a potential conflict, I would bring that up and have a ruling by the Board of Ethics.

Councilmember Hooser: Okay. Sometimes there is no real conflict, but there might be a perception of conflict. I would hope that given the situation in the community, the sensitivity of the topic, and the importance of keeping our water, that we would err on the side of caution when it comes to these kinds of situations. Did you seek out the position or did the Mayor seek you out?

Ms. Tokioka: The Mayor sought me out.

Councilmember Hooser: Okay.

Ms. Tokioka: He did, yes.

Councilmember Hooser: Great. Thank you very much.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Does Syngenta lease land from Grove Farm Company, LLC?

Ms. Tokioka: Currently we do, yes.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Are there any other questions? If not, thank you very much, Beth.

Ms. Tokioka: Thank you.

Council Chair Rapozo: With that, can we have the next item, please?

CONSENT CALENDAR:

C 2016-148 Communication (06/22/2016) from the Director of Finance, transmitting for Council information, the Period 11 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of May 31, 2016, pursuant to Section 21 of Ordinance No. B-2015-796, relating to the Operating Budget of the County of Kauaʻi for the Fiscal Year 2015-2016: Councilmember Kagawa moved to receive C 2016-148 for the record, seconded by Councilmember Kualii, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMUNICATIONS:

C 2016-149 Communication (06/02/2016) from the Executive on Aging, requesting Council approval to receive, expend State funds, and indemnify the State Executive Office on Aging for the award of Kupuna Care funds in the amount of \$754,679.00 to the County of Kauaʻi, Agency on Elderly Affairs, which will be used for the provision of the following Kupuna Care services:

- Adult Day Care – \$70,000
- Case Management – \$75,000
- Home Delivered Meals – \$261,248
- Transportation – \$135,000
- Homemaker – \$70,000
- Personal Care – \$70,000
- Elder Abuse – \$22,610
- Kupuna Care Admin. Cost – \$50,821

Councilmember Kaneshiro moved to approve C 2016-149, seconded by Councilmember Kualii.

Council Chair Rapozo: Is there any discussion or public testimony?

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: My question is, is the Agency on Elderly Affairs here?

Council Chair Rapozo: It does not look like they are here.

Councilmember Kagawa: I just had a question on the home delivered meals. Did that enable us to keep the services that we have or did it expand? I know at one time we cut the weekends, I believe. I was wondering whether this funding would get us back to where we were prior to cutting some services.

Council Chair Rapozo: We can send that over.

Councilmember Kagawa: Yes.

Council Chair Rapozo: It is a recurring grant.

Councilmember Kagawa: I have no problems approving it. I just had a question. We can get that answered later.

Council Chair Rapozo: That is a good question. I know the Council, in the past, had subsidized or supplemented the Meals on Wheels Program so that we would not have a loss of service. Staff, if we could have that sent over.

Councilmember Kagawa: Yes, because I believe that as announced in The Garden Island article from State Legislature, they announced that a lot more money came to Kaua'i in this year than the previous year. I was wondering was some of that increase funded for items like this where services were cut. I hope that perhaps some of the increased funding that we got from the legislature went to something like this that I feel is really needed.

Council Chair Rapozo: I agree with that. We will send that over. If we need a briefing from the Agency on Elderly Affairs, we can do that at a later date in the Committee. Is there any further discussion?

The motion to approve C 2016-149 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-150 Communication (06/06/2016) from the Fire Chief, requesting Council approval to accept a donation valued at \$3,200 from the State of Hawai'i, Department of Health, for the expansion of the Kaua'i Fire Department's Home Safety Assessment for Fall Prevention Program, to assist in continuing to conduct in-home visits and the installation of prevention devices for the county's most vulnerable seniors: Councilmember Kualii moved to approve C 2016-150 with thank-you letter to follow, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-150 with thank-you letter to follow was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-151 Communication (06/07/2016) from the Chief of Police, requesting Council approval to accept and utilize a vehicle acquired through the Asset Forfeiture Program, which will replace a previously disposed of vehicle, a gray Honda Odyssey Van, Vehicle Identification Number (VIN) #2HKRL1856YH562133, which was assigned to the Vice Section and used for law enforcement purposes: Councilmember Kualii moved to approve C 2016-151, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-151 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-152 Communication (06/23/2016) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$130,100.00, from the Edward J. Byrne Memorial Justice Assistance Grant (JAG) – Drug Nuisance Abatement Unit (DNAU) Fiscal Year 2015 application to be used towards funding one (1) full-time equivalent (FTE) Special Investigator and one (1) full-time equivalent (FTE) Legal Clerk I to investigate and process Drug Nuisance Abatement cases in our community, purchase office supplies, two (2) computers, two (2) desks, and two (2) licenses for the Justware Software program. The grant period will commence on January 1, 2017 and runs through December 31, 2017: Councilmember Kualii moved to approve C 2016-152, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion?

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Okay. With that, Mr. Kollar, could you come up?

There being no objections, the rules were suspended.

JUSTIN F. KOLLAR, Prosecuting Attorney: Good morning. Justin Kollar, Prosecuting Attorney, for the record.

Councilmember Kagawa: I just wanted you to define what the Drug Nuisance Abatement Unit is so that the public and I know what it is.

Mr. Kollar: Basically, part 5 of the Chapter 12 of the Hawai'i Revised Statutes provides a pretty robust process by which the Prosecuting Attorney or any citizen really, actually can go into court and seek a civil injunction to basically shut down drug houses in the community. It is a civil process. The Department of the Attorney General does have a unit similar to this. They have not been active on Kaua'i that I know of. I know these cases have been handled successfully. They have done a few on the Big Island and gotten some good results. Basically, you go in and get an injunction, you can shut down a drug house, and basically kick the people out of house. We are still getting a lot of complaints from the community about these houses. So we are looking to get some resources to go in and kind of approach that.

Councilmember Kagawa: I have a follow-up because I know that of a couple of cases where the drug houses were renters and the owner did not know what was happening there. Does that help you help with some of these type of cases?

Mr. Kollar: Yes, because as part of the process we would be able to go to the owners and say, "Listen, this is what we know is going on at the house and this is what we are prepared to take to court. So either you address the situation or we will address the situation."

Councilmember Kagawa: Thank you. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you very much. Councilmember Kaneshiro.

Councilmember Kaneshiro: Is this grant for two (2) new positions?

Mr. Kollar: Yes. Pardon me, there is a typographical error on page 2. It says "Special Prosecuting Attorney." We are actually looking for a Special Investigator and a Clerk just to process the paperwork.

Councilmember Kaneshiro: Obviously the money is not guaranteed recurring, right?

Mr. Kollar: Correct. Typically when they fund projects like this, it is for a maximum of four (4) years. If the program ends, the position ends. That is how it has worked in past with other grants. By attrition, there is another spot that opens up that we can move them into or it goes away.

Councilmember Kaneshiro: Okay, that was going to be my question. What happens at the end of the grant? Thank you.

Council Chair Rapozo: Is this position a contract position?

Mr. Kollar: Correct.

Council Chair Rapozo: It will not be a civil service position?

Mr. Kollar: These would be most likely one (1) year contracts, yes.

Council Chair Rapozo: Most likely?

Mr. Kollar: Or eighty-nine (89) day contract hires.

Council Chair Rapozo: Okay. This is not going to be a new position?

Mr. Kollar: Correct. We are not getting the County into any permanent commitments as far as resources.

Council Chair Rapozo: Thank you very much.

Mr. Kollar: Thank you.

Council Chair Rapozo: Anyone in the audience wishing to testify?

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there further discussion?

The motion to approve C 2016-152 was then put, and unanimously carried.

Council Chair Rapozo: Next item please.

CLAIMS:

C 2016-153 Communication (06/06/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Insurance, as subrogee of Craig Haruki, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-154 Communication (06/13/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Tyra-lynn Constantino, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-155 Communication (06/16/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Jody and Erika Valente, for damages to their vehicle and reimbursement of car rental fees, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2016-153, C 2016-154, and C 2016-155 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2016-153, C 2016-154, and C 2016-155 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE REPORTS:

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2016-20) submitted by the Budget & Finance Committee, recommending that the following be Approved as Amended on second and final reading:

"Bill No. 2633 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-11A.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE BENEFICIAL TAX RATE FOR PROPERTY USED FOR LONG-TERM AFFORDABLE RENTAL,"

Councilmember Kualii moved for approval of the report, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Next item.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2016-07) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

"COW 2016-02 Communication (06/16/2016) from Council Chair Rapozo, requesting the presence of the Acting County Engineer, to provide a briefing on the Notice of Violation and Order (NOVO) from the State of Hawaii Department of Health, Clean Water Branch for National Pollutant Discharge Elimination System (NPDES) Permit related violations and penalties at four (4) refuse transfer stations,"

Councilmember Kualii moved for approval of the report, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

BILLS FOR SECOND READING:

Bill No. 2627, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW ARTICLE 5B, RELATING TO THE LĪHU'E PLANNING DISTRICT (*County of Kaua'i, Applicant*): Councilmember Hooser moved for adoption of Bill No. 2627, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kualii.

Council Chair Rapozo: Is there any discussion? Councilmember Kagawa.

Councilmember Kagawa: Is the motion to approve?

Council Chair Rapozo: That was the motion.

Councilmember Kagawa: I have some questions for the Department of Planning.

Council Chair Rapozo: Is the Department of Planning here?

Councilmember Kagawa: I never got my answer as to how many houses are in the Līhu'e district, particularly I wanted the breakdown from Hanamā'ulu and Puhi. How many illegal structures were going to be grandfathered or allowed to be grandfathered by approval of this Bill? Again, I never got the number. I know they said we can have an estimate and I want to know what estimate is because I do not think it is prudent of this Council to approve a bill to legitimize illegal activity. If the number is large, I think we should be cautious and do more due diligence to make sure that we know exactly what we are approving. I think it sets bad precedence and personally, I feel like if we are going to approve something like this knowing there are large numbers, then why are we being so strict with small numbers of Bed & Breakfasts (B&Bs) and Transient Vacation Rentals (TVRs) or what have you? We are going to be strict in one (1) area and be lax in another area. I really do not understand that type of logic. Again, I want to have those questions answered before we approve this Bill.

Council Chair Rapozo: Thank you. Councilmember Yukimura and then Councilmember Hooser.

Councilmember Yukimura: Well first of all, we cannot pass this without having the Department of Planning in the room.

Council Chair Rapozo: I agree. I do not know where they are at. Maybe they forgot today was Wednesday or maybe too much Fourth of July, but this is the frustration, again. It is a Wednesday. It is 9:00 a.m. It is not like it is 3:00 p.m.,

4:00 p.m., or 5:00 p.m. We should have the representatives of the departments here. They have the agenda six (6) days in advance like everybody else. The public comes out. This is a major Bill. I share your concerns in addition to the concern that we only limiting this so-called benefit to one (1) area and not the west side or anybody else. Anyway, I agree, Councilmember Yukimura. We definitely need the Department of Planning here. We will finish up with comments and then we are going to recess until they show up.

Councilmember Yukimura: I also want to say that thanks to our staff, Yvette did some really good research for me and I sent it to all of you last night. What it is showing me is that none of the jurisdictions have given waivers of development fees except where there is an assurance that the unit will be affordable. I understand that the Department of Water just passed rules for giving breaks, but I do not think there is any tie to affordability. We need to know exactly what the Department of Water has done and what their rules are. Also, with respect to what Councilmember Kagawa has said about grandfathering, one (1) of the jurisdictions in this research did an amnesty program, which helped illegal units become legal, but with certain very important guidelines to ensure that we were not just "okaying" any and everything. There was a very well-structured way for units to become legal and to add to the affordable housing inventory. I think that is worthy of more research because I do not have the assurance that the present Bill has actually thought through all of the things that need to be thought through about that amnesty piece. I think we need to always research what other places have done so we do not reinvent the wheel and repeat mistakes that we could have avoided. I would like to have the Department of Planning look at all of this information and at minimum, be able to explain to us how things are going to work without unintended consequences.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: I certainly think we should hear from the Department of Planning because they are the authority on this. But it is my understanding that the Bill as-written, does not grandfather anything in in terms of illegal units. It is my understanding the Bill as-written, allows people to come in and apply for after-the-fact permits. It does not grandfather or legalize anything at all. That is certainly what my understanding is. If that is incorrect, the Department of Planning can point that out and we can make appropriate amendments. I would be remised if I did not remind us all that we have been talking about this Bill for several months now, I believe. We have an urgent housing crisis and I believe this is a reasonable proposal aside from incentives, which is a separate issue. I think we should deal with those issues in a responsible manner, but the core of this measure merely provides options, affordable housing options and rental options, for people to either let their family members rent, or use a legal unit on their property, or rent one out. I think it is important that we have this discussion and hopefully approve and vote this out. Thank you.

Council Chair Rapozo: Well, I am not sure what the wishes of this body is today. If we are looking at exploring what you are talking about and what Councilmember Yukimura is talking about, then my suggestion is that we send this back to the Committee because I really do not want to waste any time in the Council Meeting to do the Committee work. The Department of Planning is not even here and I think it is important to understand that this Bill was a request from the Administration. It was not a request of the Council. It came to us, Councilmember

Chock and Councilmember Hooser introduced it at the request of the Administration, and they are not here today. If there is going to be a lot of work to be done, if there is an amendment or two (2), that is fine. We can do that today. But if there is going to be an intense discussion and numbers that the Department of Planning is not prepared to present, then my suggestion is that it would go back to the Committee. Councilmember Chock and then Councilmember Kagawa.

Councilmember Chock: Thank you, Council Chair Rapozo. I think we do need the Department of Planning here to answer a few questions. The big question for me is whether or not it goes back to Committee is where some of the opportunities that Councilmember Yukimura is talking about should rest. Should it be in this existing Bill in what is being called an "incentive bill" that is forthcoming, or in another section? That is where we need that input from the Department of Planning in terms of how it is that we want to ensure that what we are creating here or what we are passing here will be addressed subsequently. There they are.

Council Chair Rapozo: The Department of Planning is here. Is there any other discussion before I call up the Department of Planning? Councilmember Kagawa and then Councilmember Yukimura.

Councilmember Kagawa: Based on what several Councilmembers talked about, my concern is yes, there is an affordable housing crisis, but does the affordable housing crisis allow you to do whatever you want on your property because you have an affordable housing need personally? I mean, we have had Additional Dwelling Unit (ADU) laws on the books for fifty (50) years or what have you that say if you have a lot of ten thousand (10,000) square feet or more, you can put an additional dwelling on your property. If you knew that way back from the 1970s that you need housing for your family, you make sure that you have a lot ten thousand (10,000) square feet or greater and then you can put that additional dwelling. What this Bill does for the Līhu'e district is it throws away that law. That law no longer applies and you can basically put a house on anything that you want that is larger than five thousand (5,000) square feet. I am concerned that we are making such a drastic change and we are not doing enough due diligence to make sure that this huge decision is being vetted properly and we know all of the facts and numbers before we push it out. I do not think this is something that we should just be pushing out just because we have a blanket affordable housing problem. I seriously believe that there are major concerns with the long-term ramifications of passing this Bill, and I think the Department of Planning said there were two thousand one hundred twenty-nine (2,129) lots within the Līhu'e district that could potentially qualify for the Additional Rental Unit (ARU) Bill. That does not tell me how much are illegal and already there. They do not answer my question and he is here to answer the question. What I am saying is we certainly have to consider the whole island, not only Līhu'e has an affordable housing problem. There is affordable housing problems all over the place when you talk about what kind of rents you pay in Hanapēpē, Kalāheo, Kapa'a, and on the north shore. Why is this Bill only for Līhu'e? Why are we throwing away the ten thousand (10,000) square feet requirement only for Līhu'e? There is certainly an affordable housing problem on this entire island and again, this is "ready, fire, aim." I think we should stay away from "ready, fire, aim" legislation.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: We are doing it in Līhu'e because this is the area designated for growth and we are trying to keep compact development because that is the cheapest way for people to live, close to services. We are trying to do other things in other areas to promote affordable housing, but the problem is that if we do not do this Bill correctly, we will not promote affordable housing. I mean, we give breaks and then people rent it at non-affordable prices. Is that going to help? If this is a supply bill, you have to have a certain amount of supply all at once. If it is seven (7) homes a year, I do not know that it is actually going to affect price. We may need to have other restrictions or requirements that make sure it is affordable if we give people a break and put the cost of the system on somebody else, whether it is the ratepayers or other people. This Bill has to be crafted carefully. I am guessing that at minimum, the Department of Planning will have researched everything so they can answer our questions. Now, I have before me, a rule that was proposed at the Department of Water, I believe by the Planning Director. We need to know what that rule is and how it interacts with what we are doing here. Looking at what I think is the rule, I am not clear that it is really well-integrated or coordinated. I have a lot of questions. I would really feel more comfortable if at the end of our discussion, we send it back to Committee because I do not think all of the homework has been done that needs to be done.

Council Chair Rapozo: Councilmember Chock and then Councilmember Hooser.

Councilmember Chock: Council Chair Rapozo, there are a lot of questions on the table, let us move towards getting the Department of Planning up here and represented because we can go around and around in circles with what it is that we think, but what it is that we need to know lies within their department. Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I will be brief. This measure is about creating additional opportunities. I agree with Councilmember Chock that if we are going to provide incentives or breaks on fees, water sewer, and whatnot, that is an entirely another discussion that should be addressed in another bill shortly after this is passed, but even without those incentives, this measure, if passed, creates an opportunity for significant new inventory. Councilmember Kagawa said, "Why only Līhu'e?" Well, because Līhu'e is where the General Plan/community plan says increased density should go. Līhu'e is the place that has sewer. Līhu'e is a place where we are investing significant sums of the money to build walkable communities and if it works like it is supposed to work in this area and we want to consider expanding it to other areas, let us have that discussion rather than just do it all over everywhere one time. Līhu'e is the place it should be. That is the reason that this measure is proposed for this area. It is not accurate to say that this measure gets rid of the ADU law. That is an incorrect statement. It does not. The ADU law still stays in effect. This measure is in addition to that. If you have an ADU on your property, you are allowed to Condominium Property Regime (CPR) it. You could subdivide it out. You could sell it to somebody else. You could build a mega mansion on that ADU and not what we are proposing here, not with the Additional Rental Unit. There are strict guidelines governing the size of these units and restrictions against selling it or CPR it. It is an entirely different animal. It has the opportunity to significantly add inventory at no cost to the County. We can talk it to death, we can ask all kinds

of questions, we can talk, and it will never be perfect. I suggest that we make it a good-faith effort, which I think we already have, listen to what the Department of Planning has to say, and pass this out into law so owners of the properties in Līhu'e can build small rental units for mom and dad, or for their children, or for people they want to earn a little extra income from. Thank you.

Council Chair Rapozo: With that, I am going to suspend the rules. Department of Planning, if you could come up. We will start with Councilmember Kagawa who had some questions.

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Deputy Planning Director: Good morning, Council Chair Rapozo and Members of the Council. Deputy Planning Director Ka'aina Hull, for the record.

Councilmember Kagawa: I am going to have the response that you sent put up and I want you to clarify it. My question is how many illegal structures or houses in Puhi, Hanamā'ulu, and Līhu'e are estimated to be out there that could be taken care of by passage of this Bill?

Mr. Hull: Councilmember Kagawa, there is no way that Department can estimate that figure. We are aware that there are a large portion of illegal rentals within the Līhu'e district as well as throughout all of the Kaua'i, but to somewhat approximate how many could take advantage of this, in essence, they can take advantage of the additional ability to put a kitchen sink because that is the defining factor of when it goes into another dwelling unit when they put that additional kitchen. There are a significant amount out there that we are aware of, but to say that they will automatically be able to take advantage of the ARU entitlement should it be adopted, we cannot really approximate that number because of the fact that some of those illegal improvements that may have been made on properties in the Līhu'e area may have also violate setback or lot coverage. There are not much height violations out there, but in particular, setback and lot coverage. If they are unable to meet say the fifty percent (50%) lot coverage or they exceeded it with the illegal improvement, then they may not be able to take advantage of the entitlement.

Councilmember Kagawa: What was the two thousand one hundred twenty-nine (2,129) lots number made up of? Is it made up of existing permits for single houses with lot sizes of more than three thousand five hundred (3,500) square feet?

Mr. Hull: Essentially, we were able to use our Geographical Information System (GIS) data to determine those lots that were over three thousand five hundred (3,500) square feet in size and those lots that only have one (1) dwelling unit on it because under the draft language of the Ordinance, if you only have one (1) dwelling unit or should you have more than one (1) dwelling unit or guesthouse on the subject property, you do not qualify for the ARU. We could approximate that there are two thousand one hundred (2,100) lots in the Līhu'e planning area, and that includes Puhi and Hanamā'ulu, that only have one (1) dwelling unit and could potentially take advantage of the entitlement.

Councilmember Kagawa: Would this Bill supersede the existing law of having a minimum ten thousand (10,000) square feet lot size to put an ADU on?

Mr. Hull: I would not say it supersedes because and ADU and ARU are two (2) different entities. An ADU, you can construct it to be any square footage as well as you can sell that ADU off. This is just of a different type of entitlement. It would allow an ARU on lots under ten thousand (10,000) square feet in size and additionally just to note that if there is an ADU on the lot, that lot will not qualify for an ARU.

Councilmember Kagawa: And some ARUs are ADUs, right? Some ARUs will become ADUs if it is separate from existing structure, right?

Mr. Hull: Well, if they...

Councilmember Kagawa: It can either be attached to the existing home or it can be separate, right?

Mr. Hull: It can be separate, but the defining characteristic between should this draft ordinance be adopted, would be that an ARU could never be CPRed and sold off, but an ADU can be CPRed off.

Councilmember Kagawa: But you are talking about the CPR law. I am not talking about that. I am saying it can be a separate additional dwelling unit.

Mr. Hull: It can be separate and they would function in essence, if it was under eight hundred (800) square feet in size and on a property, they would look identical. An ADU eight hundred (800) square feet or smaller and an ARU eight hundred (800) square feet or smaller in size and in use would look absolutely identical. The only difference between the two (2) would be that there will be a prohibition on CPRing one from the other.

Councilmember Kagawa: For a lot of three thousand five hundred (3,500) square feet, you can put an additional four hundred (400) square feet floor area. Obviously, A lot of those would still need to meet the fifty percent (50%) lot coverage requirement, and lot coverage includes any pavement for sidewalks and driveways?

Mr. Hull: Correct, any impervious surface.

Councilmember Kagawa: A lot of those would be upstairs or whatever?

Mr. Hull: Yes.

Councilmember Kagawa: A three thousand five hundred (3,500) square feet lot is small.

Mr. Hull: Yes. The Department has spoken on that previously here. The vast majority we anticipate that come online because a lot of the lots have come close to their lot coverage maximum, we anticipate if anybody is taking advantage of it, it will be occurring within the existing structure and/or a second story. In our discussions with contractors, a lot of them anticipated that just

because of the cost of doing a second level on an existing structure is extremely expensive, more than likely they anticipate that the bulk of the clientele will be coming in for single story converting a bedroom or two (2) into an ARU.

Councilmember Kagawa: Let us explain two (2) scenarios. One (1) scenario where a person has a single house on three thousand five hundred (3,500) square feet lot and he wants to do a four hundred (400) square feet ARU. What is the requirement for water? Will they have to pay for an additional new waterline for that?

Mr. Hull: That person would not have to necessarily put in a new water line. He or she would be required to apply for the additional meter and the FRC costs. They can actually sync them into a single meter, but the FRC cost, the Facilities Reserve Charge cost, would still be implemented as we understand it.

Councilmember Kagawa: Okay.

Mr. Hull: If the unit is attached or within the existing structure, that current rate is approximately nine thousand eight hundred dollars (\$9,800). If it is a separate unit, it is approximately fifteen thousand dollars (\$15,000), I believe.

Councilmember Kagawa: What would be the water charge for an existing house that is illegal that already has everything hooked up, they are all hooked up to one (1) meter line for twenty (20) or thirty (30) years? Would they be required to pay additional water charges?

Mr. Hull: If they applied to come into conformance, yes, my understanding is that they would still have to pay the additional FRC rate.

Councilmember Kagawa: Do you think they will come in?

Mr. Hull: It depends, quite frankly. Is there much impetus for folks to come into compliance just as they exist? No, not really. Without the Department of Planning out there and the Department of Water actively enforcing and trying to shut down these illegal rental operations, there is not much impetus for these folks to come into compliance, quite frankly. However, a lot of times when say there is an exchange of the property and it goes through the checks that should happen during the sale of the property where it should be brought into conformance, a lot of times, that is when we see structures come into conformance when the transaction happens. You are right, Councilmember Kagawa. We do not anticipate a race to the door for people currently with illegal structures to come and get into conformance.

Councilmember Kagawa: How would you normally identify illegal structures? Would it be based from a neighbor complaint?

Mr. Hull: Yes. The enforcement that we have for overall zoning enforcement is all complaint-driven. The only enforcement team that we have that actually actively investigates is the team going after illegal transient accommodations. We have one (1) inspector for the entire island for zoning

compliance outside of the transient accommodation issue that just operations on complaint-based.

Councilmember Kagawa: I will give you a scenario. You have a complaint saying there are multiple families living there, your inspector goes and says "This is illegal." What is the next step? Is the homeowner able to remove the kitchen appliance and comply?

Mr. Hull: Under Hawai'i Revised Statutes, the Department of Planning does not have immediate authority to issue fines or forward it to the Office of the Prosecuting Attorney. Our initial action has to be an action to get towards compliance. We meet with the property owner to explain exactly what needs to be done to bring the property into compliance. Say in many situations it is just the removal of the kitchen, then we instruct them that they have x amount of time to remove that kitchen. If they are able to remove it in that allotted time, then we issue a compliance notice. If they fail to remove it in a timely manner, then we bump it up to the fining action and possibly forwarding it over to the Office of the Prosecuting Attorney.

Councilmember Kagawa: What if the next day when you folks are gone, they put it back? What happens then?

Mr. Hull: We play that cat-and-mouse game again.

Councilmember Kagawa: Thank you. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you. Ka'āina, is this Bill meant to be an enforcement tool for Hanamā'ulu, and regarding the concerns that are being expressed, what is the Department's response or interest? How are they move forward on some of the concerns of getting people to comply?

Mr. Hull: This is not an enforcement action per se. It does afford the opportunity for some, if not many, people that currently have illegal dwellings on their property to come into compliance. As I mentioned to Councilmember Kagawa earlier, there may be other issues that do not allow for them to come into compliance because they might be violating other sections of the Code. I think there is an honest attempt to acknowledge the fact there are illegal dwellings out there. There are a lot. It is on the black market, but that black market is quite frankly addressing a dire need here on Kaua'i with housing. They are. If there is a way that we can simultaneously allow them to address that need while allowing them to bring them into compliance, the Bill is an opportunity to do that. Above and beyond that though, are we going to be knocking on doors and informing them of this? Quite frankly, we do not have the time or resources for that.

Councilmember Kagawa: I know there are a lot of questions about the flipside of what this Bill really is intended for, and that is to take some progressive steps forward in trying to get some housing together. Along that, we have not had a whole lot of discussion and I am not sure what our limitations are here today about the incentive package. I think that is where, for the Councilmembers to have a

broader picture of how we intend to be successful. I think it is connected to this Bill and needs to be explained to some degree. I was hoping that you might be able to shed some light on that for everyone.

Mr. Hull: The Bill ultimately is a zoning entitlement that allows for opportunity. As we are learning with other zoning entitlements that we have given to other areas, say the Līhu'e town core area as we are looking with the South Kaua'i Plan, zoning is not an end all to be all. Just because you give that entitlement does not mean that the property owners are going to come forward and provide this service or use. But in some situations, you need to reduce additional barriers to entry. First and foremost, you need to reduce the prohibition on allowing it. First, we need to allow that opportunity. We are looking at the incentive package. In particular, the draft bill you folks have before you is very similar to the O'ahu bill. We looked at the O'ahu bill seeing that it had the potential to provide a much needed supply for housing. But even when we first looked at O'ahu bill, we saw that it was so rife with overly burdensome regulations that we anticipated not much coming online. So when looked at it, we really pared down the O'ahu regulations to make it as easily as possible for people to apply for these types of uses and move forward. As of recent, the O'ahu Administration has recognized that their ADU/ARU Ordinance is not bringing in as much as they anticipated and recognize that there are a lot of barriers to entry on their bill, and that they need possible incentives or a reduction of infrastructure fees. That is what their Council is actually entertaining right now. Like I said, we have pared this one down on the onset just to not be overly burdensome as regulation, but we also recognize that there may be a need to look at a reduction in fees. The potential of the Administration also submitting to the Council an incentive package, I said it previously. We have spoken with the Wastewater Division and those properties that are in the vicinity to the County's wastewater lines, the Wastewater Division is willing to waive their hook-up fees, their equivalent to the FRC, which is roughly three thousand dollars (\$3,000) or four thousand dollars (\$4,000). We also recognize that the Department of Water's FRC is probably the most cost prohibitive as far as infrastructure and fees are concerned. So we are working with the Board of Water Supply to see if we can reduce those fees. That still remains up in the air. It would be our intention if we could, to submit something as an incentive package, that it comes simultaneously so that there is not much confusion or back lay. That is why we have not introduced the wastewater reduction in fees because we have hope that we might be able to simultaneously pair it with a reduction in water fees to the water FRC, but that remains to be seen. I really appreciate Councilmember Kuali'i's amendment where it somewhat pushes the date that the ordinance goes into effect to afford us time to possibly get that package together. If we cannot get the FRC through the Board of Water Supply, the reduction of the fees, then we may anticipate just coming here with a sewer hook-up reduction in fees, but at this time, we have hope.

Council Chair Rapozo: Actually, I have a follow-up as far as the fees because I think that is what the reality is in this. Let us just use the eight hundred (800) square feet units on five thousand (5,000) square feet lots. What would the County fees be as far as building, planning, and whatever fees? What would that be? I am not talking about water or other fees.

Mr. Hull: Just the other fees aside, you are only looking at the building permit fee and zoning permit fee. The zoning permit fee is thirty-five dollars (\$35).

Council Chair Rapozo: Okay.

Mr. Hull: The building permit fee would range on what they are actually proposing interior-wise and what it looks like, but as I understand it, it could range anywhere from four hundred dollars (\$400) to two thousand dollars (\$2,000). It just depends on the assessment that the Building Division does.

Council Chair Rapozo: Okay, let us go there first then. The construction of an eight hundred (800) square feet dwelling today. I do not know what the construction costs. What is it? A couple hundred dollars a square foot?

Mr. Hull: Actually, at the last Council Meeting, we submitted a rendering that had a cost analyses of all of the costs. I think we came out that it depended on if it was self-built or...

Council Chair Rapozo: I am not talking about self-built.

Mr. Hull: Or if a contractor was doing it. Sorry I did not bring that with me, but I believe we had the broken down to self-built was sixty thousand dollars (\$60,000) and contractor was eighty thousand dollars (\$80,000). Sorry, I did not bring that with me.

Council Chair Rapozo: Eighty thousand dollars (\$80,000) for an eight hundred (800) square feet house?

Mr. Hull: It was eighty thousand dollars (\$80,000) or one hundred thousand dollars (\$100,000). Sorry Council Chair Rapozo. If it is done within an existing structure, it was the conversion...

Council Chair Rapozo: No, I am not talking about that. Okay. Your whole purpose of the Bill, number one, it is not an amnesty bill, right? This Bill was not created because you wanted to get all of the illegals to become legal, right?

Mr. Hull: It could serve some of that purpose.

Council Chair Rapozo: Let me just read what the purpose of the Bill is. It says, "The purpose of this Ordinance is to encourage and accommodate the construction of additional rental units and to increase the number of affordable rental units in the Līhu'e Planning District..." That is the purpose. The purpose has morphed now, but the original purpose as I remember, was that we wanted people who had the lot size. That is why the lot size was specifically delineated. We wanted people to have an opportunity to go out and build an extra unit on their property and hold them to rent it to affordable housing. That is what I thought the purpose was. Now it is this whole, yes, the illegals can become legal if they come in and they agree to certain things. At the end of the day, I guess my point is how reasonable or how feasible is it for someone to go and build an eight hundred (800) square feet unit, remember they have to have the parking and water, fourteen thousand dollars (\$14,000) or fifteen thousand dollars (\$15,000)? Then to be able to turn that and rent it as an affordable rental. Really, I am just trying to be real.

Mr. Hull: I apologize. I do not have that handout for you today. Like I said, the ability to build it was coming out to sixty thousand

dollars (\$60,000) to eighty thousand dollars (\$80,000) within the existing...I want to say it was one hundred thousand dollars (\$100,000) to one hundred twenty-four thousand dollars (\$124,000) as a separate unit.

Council Chair Rapozo: Yes, I figure to construct a house right now is probably one hundred fifty dollars (\$150) to two hundred dollars (\$200) a square foot if I went to a contractor. That is probably what it costs here on Kaua'i. At eight hundred (800) square feet, that is one hundred sixty thousand dollars (\$160,000) just for the house. It is not counting the furniture. It is definitely not counting the water. You add another fifteen thousand dollars (\$15,000) to that. I am just trying to be real and I think what Honolulu is finding out is "wow, we do not have many takers." Of course we do not have many takers. If I am going to dump two hundred thousand dollars (\$200,000) into an eight (800) square feet unit on my parcel, I am not going rent it out for one thousand dollars (\$1,000) or nine hundred dollars (\$900) a month. That does not even cover the mortgage. So I just want us to understand and be real about this.

Mr. Hull: Council Chair Rapozo, like I said, we said that from the very beginning. In no way, shape, or form do we anticipate this being a panacea to our housing crisis. I think you mentioned it before. At best, this is a Band-Aid. I would agree with that sentiment. At best, this is a Band-Aid. It is merely trying to look at providing that opportunity should somebody want to take advantage of it. Do we anticipate a whole slew of ARU applications? Quite frankly, no.

Council Chair Rapozo: Right. At the end of the day, how impactful will this be on affordable housing? We are talking about the Lihu'e area alone and yet, there are some lots that accommodate, more than five thousand (5,000) square feet lots, out on west side. There are a lot of those lots, but they are not able to use this. I interrupted Councilmember Chock, so I wanted Councilmember Chock to finish up his questioning and then we will go to Councilmember Yukimura. Do you have a follow-up on that specific line? Councilmember Yukimura.

Councilmember Yukimura: I think there are a lot of families that would spend one hundred sixty thousand dollars (\$160,000) or one hundred eighty thousand dollars (\$180,000) to help their son or daughter who has returned home to get started, or to create a place for a granny flat. I think there are, considering that you would have to spend three hundred thousand dollars (\$300,000) to build a single-family house somewhere on a separate lot. I just wanted to say that.

Council Chair Rapozo: I would just say that if that was the case, we would have a lot of people taking advantage of the current ADU law. We would have a lot of people using the existing ADU law with lots over ten thousand (10,000) square feet, building the structures for their kids. It is not happening because it is too expensive. I think you have to understand that majority of the people on this island do not have the ability to go out and get a loan for one hundred sixty thousand dollars (\$160,000). I think that is where some people think we live in this area that yes, maybe some people can go to the bank, sign a mortgage application, and get one hundred sixty thousand dollars (\$160,000) or two hundred thousand dollars (\$200,000). There are a lot of people, and I am one of them, that I am upside down on my mortgage. I do not have any equity. I do not have a boat, or motorcycles, or toys. It is just life. That is what it is on this island. It is not just where we can go

down to the bank, go get two hundred thousand dollars (\$200,000), build a structure, and rent it for less than my mortgage because I want to do the right thing. If that were the case, like I said, the ADU law would be used way more and it is not. Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I have Ka'āina's assessment or cost analysis here. A self-build is at forty-two thousand dollars (\$42,000) and a contractor build is at sixty-one thousand dollars (\$61,000). Definitely the FRC charges are a big concern and we are in the middle of looking at it. I think the Board of Water Supply is having these discussions as we speak. I have a copy of the May 17th, I guess this is the discussion on the proposed rule changes that do try and address this. These are not final, but they are looking at how it is we can move single-family homes converted to multi-family homes to be assessed at four thousand nine hundred dollars (\$4,900).

Councilmember Yukimura: We just got word that they passed.

Councilmember Chock: Okay, so they passed. These rules are passed. I do not know if this could be circulated as well, but this is what we are talking about as some of how we intend to try and address the big elephant in the room, which is these infrastructure costs. Maybe we could have a copy of this, too, for others. Is that possible?

Mr. Hull: I might also clarify, Councilmember Chock, the handout that we handed out a couple of Council Meetings before with the forty-one thousand dollars (\$41,000) and the sixty thousand dollars (\$60,000) was specific to a rendering that we provided also that was an internal conversion of approximately four hundred (400) to five hundred (500) square feet.

Councilmember Chock: Right. Thank you. The questions that has not been answered, but we did bring up that I think deserves more attention is how do we keep it in long-term affordable rent units? We did have some answers, but I wanted you to have a chance to speak to how you see the Department supporting that coming into the incentive bill if we were to move in that direction.

Mr. Hull: Currently, there is no affordable housing requirement in the draft ordinance. If it is the prerogative of the Council to insert it, that would be the prerogative of the Council. In discussions with contractors and property owners, much of them felt very hesitant in including that and considered a significant barrier to entry, and not at the rates that were being required though. Many of the rates that currently are at the market-level here in Līhu'e, actually are somewhat nominal or close to the affordable housing rate. So that was not their objection. Their objection was that under the affordable housing lease agreement, it requires that they have the lease of no shorter than a year, and that for them, was somewhat of a stop-measure. They would not enter into that agreement just because of the fact that they wanted the ability to evict tenants should there be certain bad tenants. That is just us conveying what we got from the private side. Like I said, we would not object should Council want to implement an affordable housing requirement in this draft ordinance, but we just would point out that many individuals in the public, as we held our community outreach, objected to that as a barrier to entry and we will just leave it at that.

Council Chair Rapozo: Councilmember Yukimura and then Councilmember Hooser.

Councilmember Yukimura: On that very point, if they have a bad tenant and they have a six (6) month agreement, would they still want to get rid of someone? I mean, there is an onerous landlord-tenant process, I think, that does not allow you to immediately evict. They still have that option to go through the process. Is it that they normally do not want to go through the process, so they will just wait until the term of the agreement is met and that is why they do not want a year? They want it shorter?

Mr. Hull: Councilmember Yukimura, I cannot go into further detail on that. It is just that was just expressed during our community outreach.

Councilmember Yukimura: Yes, but it is important to understand.

Mr. Hull: We can follow-up with some of them, but there was just, I would say a significant amount of objection and hesitancy on parts of stakeholders that do play a role in rentals here on the island and saying that would possibly hinder or prevent them from exercising the option of building and constructing the ADU.

Councilmember Yukimura: Okay. Are you saying that they did not have objection so much to the requirement that the property is rented at affordable rates? Their main concern was requirement that it be at least a year, and so in the Bill, you reduced it to six (6) months. Is that correct?

Mr. Hull: The only reason why the six (6) months is in there is because technically under the Transient Vacation Rental Ordinance, anything under six (6) months is considered a TVR. So that is why we put the six (6) months in there.

Councilmember Yukimura: Okay. Was that the basic way you addressed the objections that came up when you spoke to contractors and others?

Mr. Hull: No. We just did not include a requirement that it meet the affordable housing standards under the Kaua'i County Code. That is just not included that they rent it at those rates or at that one (1) year lease, essentially.

Councilmember Yukimura: Okay. I am not looking at requiring any ARU to be affordable. The question is whether the waiver of development fees, like the Facilities Reserve Charge, would be done for all ARUs or for those that agree to agree to be rented at affordable rates?

Mr. Hull: I think that is an important point to note. I think should we get our incentive package before this body, that a robust amount of discussion...

Councilmember Yukimura: But I understand that the incentive package you put before the Board of Water Supply has been passed and they do not have that

requirement. It says part 5, Section 3, paragraph 3(B)...actually, I think we need to have a report from you or the Planning Director about this, seeing that the Planning Director proposed this to the Board of Water Supply. It is going to impact this Bill and we do not understand how the two (2) interrelate. At minimum, I think we would like to get an explanation and a rationale. I also want to know from the Department of Water who is going to pay for these waivers. If the people do not pay for their actual cost of the system, who pays?

Mr. Hull: Yes...

Councilmember Yukimura: If they are rented at market rates rather than affordable rates, is this good policy?

Council Chair Rapozo: The Department of Water can answer that question as far as where that money comes from. I just wanted to clarify and Councilmember Hooser you are next, but I wanted to ask Councilmember Yukimura, she just said she was not concerned about these ARUs being affordable. Is that what you said? Is that what you mean, that you do not have a problem with things being built for market rent?

Councilmember Yukimura: Well, I said...

Council Chair Rapozo: Well, that is what you said. I just wanted to know if that is what you meant.

Councilmember Yukimura: Yes, because that is the whole idea that supply would help bring the price down. If we give them breaks on the development fees, I do have problems not requiring them to be affordable.

Council Chair Rapozo: Okay. Again, I am just referring to what the purpose of this Bill is. Obviously, if the intent is to allow ARUs to be built and have no control over the rent, then I can tell you right now I am not supporting the Bill. Correct me if I am wrong because it came from you folks across the street, but the whole purpose of this was to create more units that are affordable, right?

Councilmember Yukimura: But if...

Council Chair Rapozo: Hold on, I am asking him.

Councilmember Yukimura: Sorry.

Council Chair Rapozo: Because that is his bill, not our bill.

Mr. Hull: The purpose and intent was to create more units and essentially provide for more supply and not necessarily to meet...

Council Chair Rapozo: Okay. Again, I am going to read this again. It says, "The purpose of this ordinance is to encourage and accommodate the construction of additional rental units and increase the number of affordable rental units in the Lihu'e planning district..." That is the purpose.

Mr. Hull: Council Chair Rapozo, there has been a lot of confusion. We are not specifically referencing the Affordable Housing Ordinance. In essences, there is a difference between affordable housing as it is mandated under Kaua'i County Code with certain lease requirements, certain homeowner status, and rental levels. That is one (1) definition of "affordable." The version we are looking at is affordable more by design and location. In essence, units that are on a smaller square footage and located within the Līhu'e area are generally more affordable by design and are aimed at a market more on the workforce side.

Council Chair Rapozo: Have you looked at Craigslist lately?

Mr. Hull: I would be in complete agreement with you Council Chair Rapozo. The reason that Craigslist and the various rentals in the market are so high is because there is very little supply available.

Council Chair Rapozo: Because they can. That is why they charge that rent, because they can. What is going to drive these people to go charge the affordable rate if there is no requirement? I do not get it. We are two thousand (2,000) or more units behind, right?

Mr. Hull: Correct.

Council Chair Rapozo: Okay. Do you expect two thousand (2,000) units to come and get this entitlement?

Mr. Hull: No, we do not.

Council Chair Rapozo: Okay. Again, I am just being real. I am thinking ahead. We do not get the two thousand (2,000) to bring us where we need to be that. So that means we are still going to have an affordable housing shortage. That means the people are going to rent these units at the best price or the highest price they can. That is just how things work.

Mr. Hull: We anticipate them operating this as a business, indeed.

Council Chair Rapozo: Yes, then I am done talking.

Mr. Hull: We are not going to anticipate property owners being philanthropic in the provision of it. As I said earlier, if the Council decides to implement an affordable housing requirement on the draft ordinance, we have no objection. But when we initially came with this, ultimately we were looking at barriers to entry. We would see that as a potential barrier to entry, which is why we did not provide it. But should the Council decide that they want to implement an affordable housing requirement, we would have no objection.

Council Chair Rapozo: Then we need to remove the word "affordable" from the purpose. If we are going to go down that road, let us call a spade and spade. If we just want more units because we think that is going to impact the supply and it is going to drive rates down, then somebody needs to do an amendment to remove the word "affordable" so it says, "and to increase the number of rental units in the Līhu'e planning district." Then I think it is an accurate purpose, but to say "affordable" and

not address that and to say that we are just going to let them to sprout up wherever they can if they want to and not have a restriction on the rent, please, who are trying to fool? That is just my personal opinion and maybe I was absent at the last meeting because I really do not recall a lot of discussion and I apologize for that. I did not review the meeting. When I read this in preparation of today's meeting, it was very clear to me the intent was to provide affordable units, not just units. Councilmember Hooser has been very patient and you probably forgot what you were going to ask. I apologize, Councilmember Hooser.

Councilmember Hooser: Thank you. How many units would be grandfathered if this Bill passes into law?

Mr. Hull: It would be the same response I gave to Councilmember Kagawa. We cannot anticipate that, Councilmember Hooser.

Councilmember Hooser: Will any be grandfathered at all? I thought they would have to come in for a permit and comply.

Mr. Hull: They would have to come in and apply to get grandfathered. So the onus is essentially on the property owner.

Councilmember Hooser: There is no automatic grandfathering is my point. Would you say that again? There is no automatic grandfathering, is that correct?

Mr. Hull: Yes. There is no automatic grandfathering, in essence, if nobody applies for a permit.

Councilmember Hooser: Okay. Even if there are one thousand (1,000) illegal units, nobody comes in, they are not automatically grandfathered? Only those that come in and apply for an after-the-fact permit are then granted an after-the-fact permit with conditions or whatever are going to be made legal, so to speak? Is that correct?

Mr. Hull: Correct.

Councilmember Hooser: Okay. Thank you. I mentioned this before as an opportunity. It is really in two (2) steps. You had mentioned that as it stands now with the first step that is before us, there is no absolute requirement for affordability and you used the word "Band-Aid." Maybe only a few people will come in, maybe a lot of people will come in. We do not really know. You do not really expect anyone, but it provides some opportunity for people who want to take advantage of it to build these units to provide rentals for family members or others, correct?

Mr. Hull: Correct.

Councilmember Hooser: Okay. The second phase in my mind would be the incentive package. If an incentive package was designed to require affordability by whatever guidelines we chose to put on there; require affordability, include water, include sewage treatment, include other planning and permitting fees, and possibly include tax deferral on the assessment of that new improvement, is it possible that we could provide an incentive package that would make it attractive to larger

numbers to come in and build these additional units that would be required to be affordable, and thus be more than a Band-Aid if the proper incentive package was put together?

Mr. Hull: I do not quite understand the question.

Councilmember Hooser: If we are able to provide an incentive package for twenty thousand dollars (\$20,000)...so you are going to build this unit and because you are going to get reduced water, reduced sewer, reduced permitting fees, reduced property taxes on the new improvement, and you promised to put it into affordable housing for a fixed length of time, it has the potential to greatly increase the people who would take advantage of this program?

Mr. Hull: I could agree with that, yes.

Councilmember Hooser: Okay, and thus become more than a Band-Aid perhaps is my point. I know you are not with the Housing Agency and perhaps we should get the Housing Agency here to talk about this, but it is my understanding that one of the fundamental rules of housing is increased inventory decreases price. When you increase inventory in areas like Līhu'e, or Puhi, or Hanamā'ulu, the increased inventory would by definition, by the law of economics, decrease the price because there is more availability. Is that your understanding also?

Mr. Hull: Correct.

Councilmember Hooser: Similar to Councilmember Kaneshiro's measure that he proposed to increase multi-family homes, I think that was the premise that he used when he presented that, that more inventory is going to help everybody regardless. When we look at terms like "affordable," it says "affordable," but affordable could be anything up to one hundred fifty percent (150%) of median income, I think.

Councilmember Yukimura: One hundred forty percent (140%).

Councilmember Hooser: One hundred forty percent (140%). So there is quite a range of that. When you looked at the work that went into developing it in Honolulu, is it your understanding that by restricting the size of these units to relatively small units and restricting the ability to sell them, that that has affordability designed into it to increase the likelihood of keeping the rents down? Is that why they did that?

Mr. Hull: Yes.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Councilmember Kualī'i.

Councilmember Kualī'i: Ka'āina on that point about increased inventory decreases price, would you not agree the issue that we are having though is that it is not automatically true because you would have to increase inventory to the place where you were providing/supplying more or at least equal to what is demand and as long as the demand is higher than the supply, the price can be higher or probably remain high?

Mr. Hull: I would not say that is quite accurate. Ultimately, the price of what it is at in Līhu'e is where supply and demand meet the equilibrium. The equilibrium is extremely high because demand is so high and supply is so short.

Councilmember Kualī'i: We are so far behind in supply is what you are saying, right?

Mr. Hull: Correct.

Councilmember Kualī'i: If this Bill generates a little bit of improvement to additional housing, but not enough to really close that gap between supply and demand, it will not necessarily, if we were without any kind of requirement, have lower rents and be affordable?

Mr. Hull: Could you restate that again?

Councilmember Kualī'i: That the market alone will not give us affordable rates if the supply does not get to the point where it passes or equals demand?

Mr. Hull: Correct, and to that point, the longer supply remains stagnant and demand keeps on increasing, you can automatically expect that price will continue to increase.

Councilmember Kualī'i: You did say that the point about significant barrier to entry and that people were having those concerns, many objected, but the objection was not necessarily based on the price. You were saying that the objection was based on the requirement of a one (1) year lease. This requirement of a one (1) year lease is where it is at in the housing side, the affordable rental, could there be consideration for this ARU specific situation something different, something that did not require a one (1) year lease?

Mr. Hull: I would have to defer to the Housing Agency because ultimately, the Housing Agency monitors which property owners are providing affordable rentals under their ordinance and meets their standards that the rate they are renting at, the terms they are renting at, and the annual renewal of the contract.

Councilmember Kualī'i: It might be that we might be needing to look at this as a whole different animal if it is going to be one more tool in the box for addressing affordable housing. It is no longer the same as what other affordable housing is because it is smaller, it is more compact, it is right in the city, and that if the true objection is primarily based on that, maybe that could be changed and that we still have some kind of requirement over the amount that can be charged in rents as far as square feet or whatever. Thank you.

Council Chair Rapozo: Councilmember Yukimura, Councilmember Kagawa, and then Councilmember Chock.

Councilmember Yukimura: I think this Bill was introduced in the hopes of creating affordable housing, but also in one of the goals of the Department of Planning to just increase housing stock, right?

Mr. Hull: The primary intent is to increase inventory and stock. To Council Chair Rapozo's point, using that term "affordable," I can see how individuals may have been confused by that. That was not our intention to reference affordable under the Affordable Housing Ordinance. The primary goal is to increase inventory and stock. Our perception of increasing inventory and particularly given the location and size of them, will mean that generally, it will not be accessing the speculative market where there is a lot higher price ranges.

Councilmember Yukimura: What is the gap group? One hundred forty percent (140%) of median income, which is what D.H. Horton will be providing in their first phase, is a house that costs four hundred thirty-five thousand dollars (\$435,000). For most people, that is not affordable because eighty percent (80%) of affordable housing need is, I think, at the one hundred percent (100%) of median income. However, those who have incomes over one hundred forty percent (140%) of median income need housing, too. If there is not housing stock for them, they are going to be competing with those who want affordable housing, right? There is a value in creating housing that is for people that are higher than the one hundred forty percent (140%) of median income, but not with county or state tax moneys, letting the private market provide for that housing stock. Is this Bill not partly trying to do that, encourage the private sector to build houses that might meet the need of the higher-end? Then, if we give breaks like in the development fees, then we require that they be for the people who have lower incomes at about one hundred percent (100%) of median income or below.

Mr. Hull: Ultimately, the goal is to increase inventory and provide opportunity.

Councilmember Yukimura: Okay. If you have seven (7) new houses per year based on this Bill, when you say "increase inventory to affect price," you have to have a lot over a given time, right?

Mr. Hull: Correct.

Councilmember Yukimura: It is something about absorption rate or whatever. If this Bill only has seven (7) houses per year, it is not really going to impact price.

Mr. Hull: I would agree with that assessment.

Councilmember Yukimura: You agree with that?

Mr. Hull: Yes.

Councilmember Yukimura: What is our goal here with this Bill?

Mr. Hull: Ultimately Councilmember Yukimura, it is just to provide opportunity to increase inventory. If that inventory is one (1) house or it is five hundred (500) houses, ultimately, the goal is to provide an opportunity.

Right now, there is a barrier or prohibition for any individual from constructing one of these types of units. It provides the opportunity. Does it provide the impetus? No, not necessarily, but it provides the opportunity. If a property owner wants to take advantage of it, that is the property owner's prerogative.

Councilmember Yukimura: The way you could increase affordable housing as defined by our Housing Agency would be to...if you can find the proper incentives for people to build and rent at affordable rates, that will then increase affordable housing?

Mr. Hull: I would agree with that assessment.

Councilmember Yukimura: The Department of Planning has proposed water rules that would let an ADU be built at nine thousand eight hundred dollars (\$9,800) instead of fourteen thousand dollars (\$14,000) for the Facilities Reserve Charge, and this would be for a country estate, right?

Mr. Hull: Councilmember Yukimura, I am not prepared to comment on water amendments. Quite frankly, I was not present at that meeting.

Councilmember Yukimura: Okay, but if the Department of Planning cannot be working cross-purposes with our goals and if you are saying that these incentives which will interact with this Bill, we need to know that you have an overall plan, and that it actually works together.

Mr. Hull: I can comment somewhat briefly in the sense that I know much of that move was actually to look at multi-family dwelling units. In essence, that there was belief of some board members...the Planning Director was involved in those proposals, but it did not come specifically from the Department of Planning. The Planning Director and other Board of Water Supply members had some concerns about the FRC rates of say, a multi-family unit or a small single-family unit that is...well, if you look at an apartment unit of eight hundred (800) square feet being assessed similar FRC rates that a five thousand (5,000) square feet country estate would be assessed to see if there is a difference in water usage. Should we not adjust that rate? I can speak to some of the intent, and that is my...

Council Chair Rapozo: We are on this Bill. We can discuss the incentives if we want to at a later posting, but for this posting, it is this Bill. This Bill is specific to zoning.

Mr. Hull: Yes.

Council Chair Rapozo: Allowing an Additional Rental Unit on a lot three thousand five hundred (3,500) square feet up to four thousand nine hundred ninety-nine (4,999), and five thousand (5,000) square feet and above.

Mr. Hull: Yes.

Council Chair Rapozo: I do not want to get into all of these philosophicals because it has already been...

Councilmember Yukimura: Excuse me.

Council Chair Rapozo: Hang on.

Councilmember Yukimura: I am still asking my questions.

Council Chair Rapozo: I told you folks if you want to have this discussed, then we will go back to Committee because right now, we are having a Committee discussion at the full Council. He is not prepared to answer for the Department of Water or the Planning Director, who was present at those meetings, I am assuming.

Councilmember Yukimura: Well, then we need the Planning Director here.

Council Chair Rapozo: Then we need to defer because I am not going to...hang on, Councilmember Yukimura. I just want to focus on the Bill today, what is on the floor today.

Councilmember Yukimura: Well, I am trying to understand how the Bill will interact with other things that the Department of Planning is proposing. I am thinking now that I misunderstood these and that is why we probably need an explanation. If it applies just to multi-family or resort development...well, I do not know about resort development. Anyway, that is a little different and it will not impact Bill No. 2627, Draft 1, like I was thinking it would. I think it would be valuable to have a discussion so we are really clear about how all of this interacts. I have an amendment to the Bill to propose.

Council Chair Rapozo: Hold on with the amendments. We still have discussion. Councilmember Kagawa and then Councilmember Chock.

Councilmember Kagawa: Ka'āina on page 2 of the Bill, you said we copied these amounts or these numbers from Honolulu.

Mr. Hull: Are you talking about the square footage?

Councilmember Kagawa: Yes, the square footage and the maximum floor area.

Mr. Hull: I believe the square footage is identical to Honolulu's bill.

Councilmember Kagawa: It is identical to Honolulu?

Mr. Hull: Yes.

Councilmember Kagawa: Do we have any idea what the ARUs are for places like Kihei, or Big Island, or Kona, or Hilo? Is it comparable?

Mr. Hull: No. Maui and Big Island do not have comparable ordinance, to my understanding of their (inaudible) ordinance.

Councilmember Kagawa: Maui and Big Island are pretty much like Kaua'i's ten thousand (10,000) square footage?

Mr. Hull: They have *‘ohana* dwelling type of legislation, but not the ARU that specifically requires that the rental unit be attached in some way or I should say cannot be separated in ownership from a primary dwelling.

Councilmember Kagawa: Would you say that is the choice by Maui and Hilo to stay rural? I think we are taking a step towards urban once we go down to such a small square footage, right?

Mr. Hull: It is a matter of philosophy, quite frankly,
Councilmember Kagawa.

Councilmember Kagawa: Honolulu is urban, right?

Mr. Hull: They are definitely urban, yes.

Councilmember Kagawa: Yes. One million four hundred thousand (1,400,000) people. We have seventy thousand (70,000) people here.

Mr. Hull: I would say that is what it is a matter of philosophy in the sense that this, in all honesty, is part of, not like is said a panacea or the primary thrust, but is part and parcel of the Department's attempt to keep Kaua'i rural. In essence, if we do not look at further intensification of our town cores, we are going to have suburban sprawl into our agricultural areas, which do not get me wrong, there is going to be some outward growth that is going to need to happen. But this is one attempt to help allow for further development in our urban areas and arguably Līhu'e is much more urban than the outskirts.

Councilmember Kagawa: I am just wondering if maybe Kahului or Hilo, who had encountered similar problems with the infrastructure that Līhu'e has and they have in tackling this issue. I am wondering if the Department of Planning looked at those Counties that in population are more similar to ours as to how they tackled this issue rather than copying Honolulu, which is apples and oranges as far as our makeup?

Mr. Hull: We did not reach out specifically to Maui or Big Island on this.

Councilmember Kagawa: What came to mind for me, was that I am not really supportive of this Bill as-is, but I am thinking if we started at five thousand (5,000) square feet and went from five thousand (5,000) to seven thousand five hundred (7,500) and then allowed four hundred (400) square feet maximum floor area, and then we went seven thousand five hundred (7,500) to ten thousand (10,000) to go with eight hundred (800) square feet is something that is more palatable as an experiment to see how much people come on-board. I am thinking that is something that at least we are not fully copying City and County of Honolulu. I do not know.

Mr. Hull: Councilmember Kagawa, if that was a proposal on the floor, I can say that we would not have no objections and we would consider that a friendly amendment.

Councilmember Kagawa: Okay. This is my last question. How many complaints were there, because you said there is one (1) inspector? I guess it has

been one (1) inspector for the past thirty (30) years of whatever. How many complaints has he received regarding “hey, a structure next to me is illegal? There are tons of cars taking up all of the shoulder. Can you please investigate whether they have an illegal structure?” I am wondering how many complaints has the inspector received over the past twenty (20) to thirty (30) years?

Mr. Hull: We can try and compile that number. I can tell you we would have resource issues in compiling whether or not it was a legal dwelling?

Councilmember Kagawa: In the Līhu‘e district, at a later date.

Mr. Hull: We can look at illegal structures. I will caution and say that in order for us to determine if it is an illegal dwelling though, we would have to physically inspect every single file to see what the complaint was. But as far as illegal structures, we can try and parse that out.

Councilmember Kagawa: How many illegal complaints because if it comes in as a complaint, then that tells me that the complainant is not happy that some people get to break the existing law when he abides by the law. I am just curious to see how many complaints over the past twenty (20) to thirty (30) years we have received in the Puhi and Hanamā‘ulu area because what I am worried about is that this Bill will now spread to Līhu‘e, which I think is not as bad. To say, “Well, Hanamā‘ulu and Puhi, there is not much we can do. There is too much and we play cat-and-mouse with them all the time.” But to pass a bill and now say, “Okay Līhu‘e, we want you to come like that,” is the main issue that I have. We can talk about grandfathering all we want or not grandfathering, but the fact of the matter is if we do not pass this Bill, they are all illegal right now and they will remain illegal. By passing this Bill, this gives them a venue to become legal, and that is the difference, right?

Mr. Hull: Yes, there are a lot of venues.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Councilmember Chock is next, but I just do not see the incentive for the owner to come forward. First of all, I do not know what percentage of those structures are permittable, like you said, lot coverage. I am going to come in and I am going expose myself. Unless we have an amnesty where they are assured no prosecution and then they have to pay nine thousand eight hundred dollars (\$9,800) for water, that is not a very good incentive. Again, I am just trying to be real. Councilmember Chock.

Councilmember Chock: On page 2, you might not have the answer to this, Ka‘āina, but I am going to propose it anyways because it relates to FRC. It says, ““Additional Rental Unit” means...” and number 2 says, “When built with an existing residential dwelling unit or attached to one, the two (2) units together shall constitute a multi-family dwelling.” For rule changes that we are looking at, Part 5 Section 3(3)(C) says, “existing family home converted to multi-family home will now be assessed four thousand nine hundred dollars (\$4,900) instead of the larger meter fee or number of units less fourteen thousand dollars (\$14,000).” Essentially, what we are talking about is not a nine thousand dollar (\$9,000) fee, but back to the original

four thousand dollar (\$4,000) fee for those that are deemed the multi-family dwelling now?

Mr. Hull: Sorry, I was not aware that this had been adopted.

Councilmember Chock: Neither was I.

Mr. Hull: Has the four thousand eight hundred dollars (\$4,800) fee been adopted?

Councilmember Chock: That is according to Councilmember Yukimura.

Councilmember Yukimura: That is according to our staff's communication with the Board of Water Supply.

Councilmember Chock: Does that sound right? Does what I am saying here make sense to you?

Mr. Hull: If that was adopted, then it would be four thousand eight hundred dollars (\$4,800), correct. I know that two (2) meetings ago, they had approved the measure to go to the Small Business Regulatory Review Board, which is not the same as being adopted.

Councilmember Chock: Okay.

Mr. Hull: But I do not want to say it was not adopted, but I am not sure.

Councilmember Chock: Maybe that is something that we can clarify...

Mr. Hull: If adopted, it would be the four thousand eight hundred dollars (\$4,800).

Councilmember Chock: ...to be sure that is the direction we are headed so we know exactly what costs we are playing with from this incentive package that you are proposing.

Mr. Hull: Yes.

Councilmember Chock: The second question that I have is it has been somewhat of a collaboration and there was an interest initially and we had amended out the affordability part, which was the tax incentive that we initially had in this Bill. We took it out because the incentive bill was not ready because we did not know where we were going with the water and everything else. That is probably why it does say "affordable" in this Bill right now, and it maybe needs to be amended out. However, if this body, because this came back from the Commission, now this body is saying "we want that affordability clause in there." From your perspective, from the Department of Planning's perspective, where should it sit? Should it go back in here, or should there be some original reference as it was here and we amend it out, or does it go into the incentive section?

Mr. Hull: That is really a policy discussion. In essence, do you want to require the affordable requirements imposed on the onset for the zoning entitlement or do you want the affordable housing requirements to be a requirement of the incentive? Like I said, in either situation, the Department does not object to that.

Councilmember Chock: We understand. It might be a barrier for people wanting to take advantage of it.

Mr. Hull: Correct. In our discussions...

Councilmember Chock: That was the reason why after all your community meetings with all of the organizations they said "we are against that affordability clause," right?

Mr. Hull: Yes.

Councilmember Chock: The question that we have to decide today from my perspective, is whether this goes back to Committee to put that verbiage into this Bill or do we wait for the incentive bill and put it in there. I am not clear. I need more guidance. I understand you are saying it is a policy, but it is administrative as well because it needs to inform one or the other.

Mr. Hull: That is what I am saying. Because of our meetings and how much we saw as it potentially being a barrier, the Department is not recommending to put it in. But if it is the prerogative of this Council, we will not object to that.

Councilmember Chock: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro is next.

Councilmember Kaneshiro: I will hold my questions. If it goes to the Committee, then I will ask my questions later on.

Council Chair Rapozo: I apologize because I have got to believe I missed the last meeting if all of this discussion went on. You said you met with the stakeholders who objected to the affordability requirement. Who were those stakeholders?

Mr. Hull: The primary groups we met with were the Board of Realtors, Chamber of Commerce, and the contractors.

Council Chair Rapozo: What about the people that need homes? Were they part of the stakeholders? I do not think they would object. Contractors stand to make money. Landlords stand to make money. Realtors stand to make money. That is what we are doing with this Bill. We are giving all of these people another revenue stream without affordability. That is what we are doing. Would you not agree that if you have a home and you put up an eight hundred (800) square foot cottage with no affordability requirement, what do you think the value of that property goes to? You have the ability to rent this property, even if it is not a TVR or B&B, as a market rental. Do you not think that...that is crazy because now we are

at saying "Hey, your house that was assessed at three hundred sixty-nine thousand dollars (\$369,000) or four hundred twenty-five thousand dollars (\$425,000) just went to seven hundred thousand dollars (\$700,000) because now you have the ability to generate income." That is what this Bill is doing. I am prepared to vote today on this Bill as-written. I will tell you. I do not think you will get the four (4) votes. I really do not think you will. I do not know, but we will see. If you folks want any chance on this, I would suggest get it back to Committee because it is frustrating as I read this today. It is not an affordable rental bill. It is not.

Mr. Hull: Council Chair Rapozo, to the respect in essence, the reason we met specifically with those groups is in meeting with the Housing Agency and discussing with Department of Hawaiian Home Lands (DHHL) previously, there is a need to provide more inventory.

Council Chair Rapozo: That is not what the purpose of this Bill says though, Ka'āina. That is what I am trying to tell you. When you read this thing, it says the purpose is to create more affordable rentals. It does not say "to create or increase inventory so that the rule of supply and demand will kick in at some point and hopefully..." no. It says "the purpose of this Bill is to encourage more affordable rentals." It is not going to do that. It is not going to do that at all. No one is going to come forward. Maybe there are some self-builders and good-natured spirits out there that say, "Yes, I want to help the community" or "maybe I want to build a little shack for my son." You know that is the minority. That is going to be the exception, not the rule. If we want to create affordable housing, we have to create affordable housing and affordable rentals. This Bill, as it is written today, will not do that. That is just my very...

Mr. Hull: To be quite honest, Council Chair Rapozo, what we anticipate mostly being built actually is not going to necessarily even go on the rental market. It actually is on the mother-in-law type of in-law type of housing that provides for *kupuna* of the family or provide for those children that cannot quite afford to get into the rental or purchase market yet. So that is actually where we anticipate much of these units going online.

Council Chair Rapozo: I guess I just have a different reality. My lens are different from many other because I do not see that. I see that as an opportunity to invest money on your property to create income. That is what I see. That is what I have seen last ten (10), twelve (12), or fourteen (14) years. That is why we have the problem with TVRs and B&Bs. Has your Department considered incentivizing the existing ADU law with the ten thousand (10,000) square feet? Have we of ever thought about maybe creating incentives for those people to create affordable housing?

Mr. Hull: At this time, no.

Council Chair Rapozo: To me, that would make more sense. You have the lot coverage. Put on some incentives for those people to create housing for their family and their kids. The only way you are going to do is by putting in a requirement of affordability. That is the only way you are going to assure the County that we are going to have affordable rentals, in my opinion. Councilmember Yukimura.

Councilmember Yukimura: The Appleseed Foundation, which is trying to help poor people, did support this ARU Bill, but I do not think it is working in Honolulu as anticipated. Before this Bill was introduced, did you research the resources that the Appleseed Foundation had?

Mr. Hull: Not specifically to the Appleseed Foundation, no.

Councilmember Yukimura: In Barnstable, Massachusetts, they have an Accessory Affordable Apartment Program. The owner must rent the apartment to tenants whose income is eighty percent (80%) or less than area median, must record a deed restriction, and offers a loan program to reimburse property owners for eligible costs associated with renovating accessory affordable apartments. Owners may also apply for a one-time deferred loan that will be payable in full upon sale, transfer, death, or otherwise loss of affordable deed restriction. There are places where, I think, the dual goal of this Bill. The goal of the Bill is to "encourage and accommodate the construction of the additional rental units and to increase the number of affordable rental units." So there is the possibility of increasing units without the affordability restriction, but for those who are above the one hundred forty percent (140%), so up to the two hundred percent (200%) of median income. Then, with the kinds of things that Barnstable, Massachusetts has done, require that actually increase the number of affordable units. But it has to be crafted really carefully because otherwise you might be incentivizing things that are not going to be affordable. I think it is the incentive piece that you can use to create affordable units by our United States Department of Housing and Development (HUD) standards. Then, you might be able to increase the inventory of the one hundred forty percent (140%) and above, but I think this Bill needs a lot more work in order to do that.

Council Chair Rapozo: Are there any more questions for Kaʻāina? I know we have a couple of registered speakers on this. If not, thank you very much. We are going to take a caption break. Councilmember Kagawa.

Councilmember Kagawa: I am wondering if we are going to have a short bit of discussion before we defer.

Council Chair Rapozo: We sure will.

Councilmember Kagawa: Alright. Thank you.

Council Chair Rapozo: Councilmember Yukimura just read from Massachusetts, which is exactly what I am trying to say. Eighty percent (80%) and below is, I would guess, where we should be looking at. For this County to incentivize, to reduce fees, or to give anybody a break so they can build an investment property is ridiculous, I think. That is just my opinion. When you start reducing fees and it is not tied to a...one hundred forty percent (140%) of median income is not affordable. It is one hundred forty percent (140%). It is more than one hundred percent (100%). It may be a gap or whatever you want to call it, but at the end of the day, eighty percent (80%) and below is where I think we should be focusing. With that, I am going to take the ten (10) minute caption break now. For Maui, we have to take a caption break every two (2) hours for ten (10) minutes. We are going to do that, come back, and then we will have public testimony. Ten (10) minute recess.

There being no objections, the meeting recessed at 10:24 a.m.

The meeting reconvened at 10:34 a.m., and proceeded as follows:

(Councilmembers Kualii and Yukimura were noted as not present.)

Council Chair Rapozo: With the rules still suspended, can we have the first registered speaker, please?

There being no objections, the rules were suspended to take public testimony.

Mr. Sato: Our only registered speaker on this item is Anne Punohu.

ANNE PUNOHU: *Aloha kakou.* My name is Anne Punohu. After listening to the discussion in the Council Chambers, I had a completely different idea of what I thought this Bill would be. I had this vision of something that I thought we had discussed in the General Plan, which is little mom and pop stores and up above, there would be more apartments that are more affordable for the working class because all of the new places that have been built here that require working class workers, minimum wage, and definitely not in that eighty percent (80%) section.

(Councilmember Kualii was noted as present.)

Ms. Punohu: Right now, the people that are risking themselves to house people in little rooms and places where there is not a shower inside or there is not adequate facilities just to get a roof over their heads, these are actually people that are housing people inside of the community. People like myself are tired of only having public housing as our option. We want to be integrated into our communities. We should not be ostracized because of how much we are able to earn because we live on Kaua'i and this is our reality. I understand the original purpose is probably great, but after listening to what I heard in the Council Chambers today, I am not sure that I can support it. I like what Council Chair Rapozo said. He makes sense. Also, I heard what Councilmember Yukimura said too about this ability.

(Councilmember Yukimura was noted as present.)

Ms. Punohu: If we take care of the inventory of the higher-end, somehow it is going to trickle down to the working class. We all know any of us who have lived on Kaua'i for any amount of time, that does not work and has not worked. The problem is one (1) word. It is not a very big word. It is sure not *aloha*. The word is "greed." People that come here with the idea of getting as much profit as they can out of their housing situation and how much profit they can make on it, are always going to think about the word "greed," not about the word "community" and certainly not about the word "integration" of our working class into the communities. For me, if it does not support the working class today on Kaua'i, you do not support Kaua'i. I am not going to sit here and support any bill that will help the higher-end and not help forty percent (40%) or lower. The eighty percent (80%), one hundred twenty percent (120%), or two hundred percent (200%) is ridiculous. It is not going to work on Kaua'i anymore as we have decided to build these places for people to work such as Petco, Home Depot, the new Safeway, and all

of these places that require people to work there. Our working class is on their second or third jobs. The working people are exhausted. They are tired. They are working very hard. Nobody can afford the rents here. I do not see how this is going to incentivize, especially people on the lower-end who are really trying to accommodate people into their houses. They probably have a lot of violations. I do not see how some little Hanamā'ulu Filipino aunty and uncle...

Council Chair Rapozo: Okay, Anne. I have to stop you right there real quick. Anyone else wishing to testify? You can come back for a second three (3) minutes. I apologize.

Ms. Punohu: That is okay. I can just stop my testimony. I think you folks got it already.

Council Chair Rapozo: No, you can come back right after Joe. Joe is going to take three (3) minutes and twelve (12) seconds.

JOE ROSA: Good morning. For the record, Joe Rosa. I was a single homeowner to start on my property in 1962. It was something I can say was affordable. Today, it is all beyond the reach of anybody; a young person, single person, or a young married couple. It is beyond their reach. It is not affordable. Affordable is something that you can pay with what you are making with one (1) job. After, they made a constitutional convention change. They stopped the State from developing subdivisions like in the Wailua Houselots area and Hanapēpē Heights. In 1962 when I bought my property, three (3) fellow workers bought property in Wailua Houselots for the last time that was offered. Think about property. You have to get property made available for a young person to buy the land. Today, the prices are ridiculous. We do not have any land classification and I heard that word for the first time when Councilmember Yukimura was the Mayor, land classification. There is none on this island because property cost is the same all over the island and they do not have the facilities or the benefits of the shopping centers, airport, and utilities like that there that would give the land the classification rating that it needs. Today, Hanalei and Līhu'e are twenty dollars (\$20) a square foot. A young person or a single person cannot think about buying. I would not even think about it. My property just cost me seven thousand dollars (\$7,000) from (inaudible) to Līhu'e Plantation. Who owns all of the land around the Līhu'e area? You folks talk about it. Go see Grove Farm Company, LLC. They are the developers. They could sell the land and get people signed up like I did with the plantation. I signed up after I put my service time in the Korean War. I had to wait nearly seven (7) or eight (8) years before I was able to buy the lot. Go after Grove Farm Company, LLC, they own all of the land from Puhi to Hanamā'ulu when they bought AMFAC properties. Another thing is that Grove Farm Company, LLC controls the whole water system in the Līhu'e area. All the wells that the County owns is on their property. Who is to blame for this kind of the inflation? It is the realtors, too. The area where I live, the land area is about three hundred thousand dollars (\$300,000) per household over there, but yet, when it is being sold, it goes to another three hundred thousand dollars (\$300,000) that they slap on. Just recently last month, one (1) was sold for five hundred forty thousand dollars (\$540,000).

Council Chair Rapozo: Joe, hang on. Anyone else wishing to testify?

Mr. Rosa: So look into that.

Council Chair Rapozo: Joe.

Mr. Rosa: It starts with the land.

Council Chair Rapozo: Okay. Thank you.

Mr. Rosa: We need it cheap.

Council Chair Rapozo: Thank you.

Mr. Rosa: I will be back.

Council Chair Rapozo: With that we will call the meeting back to order.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any further discussion?
Councilmember Kagawa.

Councilmember Kagawa: Thank you, Council Chair Rapozo. I have an amendment that I want to propose at the Committee Meeting if we go back there. I think you had some concerns. My amendment would say that it would raise the limit from three thousand five hundred (3,500) square feet to five thousand (5,000) square feet. So it would be from five thousand (5,000) square feet to seven thousand five hundred (7,500) square feet, you would have a maximum square area of four hundred (400) square feet. From seven thousand five hundred (7,500) square feet and above, you would be able to have an eight hundred (800) square feet maximum floor area. That would be my preference. Since we are experimenting and seeing how many people are on-board, I would side on the err of caution and raise the lot area to at least five thousand (5,000) square feet. That way we are still following what the Lihue Plan is advising, which is to try and have more units. It is not only about affordable, well, qualifying for affordable as per the housing guidelines. A lot of affordable housing are for families that have families that come back home, work, or to take care of *kupuna*, and to allow them to have that ARU so that they can save money and make a living in this most expensive place in the world called "Kaua'i." I think the way I see it is not only hoping to increase inventory, but having housing for local families to have families and relatives have new opportunities to have housing in the Lihue area. I think with that amendment, it is a lot more palatable for me. As far as addressing problems and helping the Department of Planning to avoid this cat-and-mouse game that they have with the Puhi and Hanamā'ulu areas, I would prefer if this Bill did not address that. But I think that requires a separate bill in itself to just address that issue and how we resolve that issue. There has been no requests whatsoever from anybody in Puhi or Hanamā'ulu of friends or family that want this Bill to pass to benefit them. I have a lot of them out there in those areas. The reason why, I believe, is that they know it is not okay to violate the Building Codes. But they just made do with what they had and provided housing for families or even for rental income just to survive on this island. But they know it is not proper to avoid the laws and ask for a bill to make them comply. It is not about that. Certainly, if this Bill passes, it will allow some of them to have a venue to go and apply. Now, whether they would do it or not being that they have this FRC charge

and what have you all attached to applying for an ARU, I highly doubt it. But to provide affordable housing for local families, I think, I would rather do something than not do something. Let us see if we can get that amendment at least approved in Committee next week. I think Ka'āina will have updated information as to whether or not the two thousand one hundred (2,100) number that he talked about of people that could benefit from the ARU bill, how much that would be reduced. We will see at the next Committee Meeting. So at least give him a week to have those answers. Thank you, Council Chair Rapozo.

Councilmember Yukimura: While we are talking about amendments, I too, have an amendment. I guess in Committee, we can consider it. It says "no development fees, including Facilities Reserve Charges implemented by the Department of Water or County sewer connection fees shall be waived unless the applicant agrees in writing to rent the ARU at an affordable rental level that meets HUD's guidelines at one hundred percent (100%) of median income" and "restrictions shall be recorded against the property in perpetuity or until the owner pays any previously waived fees adjusted for inflation." So at least you get to recoup the fees. Now, there are many options. We could require the property to be affordable forever. I think that is a little problematic. Anyway, I just want to raise this issue, and you may or may not realize this actually invalidates one of the pieces that was approved by the Board of Water Supply. I think the one that would allow deferral or a waiver for any property whether or not it is affordable, any ARU, whether or not it is affordable. I think that is what I read the Department of Water's rule is now.

Council Chair Rapozo: Thank you. Are there any other comments?
Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I am happy to entertain those amendments. I think that is what this is for, is for it to come to Council and for us to work on it, and there have been previous amendments already. My biggest fear is that we do not push something forward, because in order to really look at the supply and demand question that we are considering, it is going to take multiple initiatives to get there. We have already seen some of that being entertained here. I will just mention from the beginning, we had looked at this as an affordable measure with the inclusion of the incentives package as where we thought it would sit. But I am happy to entertain it here through the amendment Councilmember Yukimura is looking at. We thought the eight hundred (800) square feet and four hundred (400) square feet sizes would hinder any speculative approaches to this. I am also willing to look at the size of the lot increase if interest is to actually limit what the character of Līhu'e is of question. I think the big picture is that we need to be forward-looking and forward-thinking about what the real needs are on Kaua'i and that we need to take at least one (1) step forward. I think there are many steps that we need to take, but this is one (1) step forward. As far as the whole island, I think this is a good stepping stone. If we can look at this, get this passed with our amendments that we want and revisit this, there is no reason why we would not look at the other areas around the island that we see the kind of growth that we want for this to apply. But we really need to work with the Department of Planning to figure out what is their capacity in delivering and administering this as well. If the Council wishes to refer this back to the Committee or to pass these amendments today, I am open to it. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I just want to say in the research that Yvette did, there is a whole issue about how to do amnesty and how to effectively afford properties that may not be built to specifications or legal right now, the opportunity to become legal affordable housing. I think we really need to look at that and I hope the Department of Planning will avail itself of the all of the research that has been done. Let us make sure we send it to them. I, too, would like to move something forward, but I want to make sure it is really going to advance our goals of affordable housing. I think we really have to work on the details in order to make sure that it is going to achieve what we want to achieve.

Council Chair Rapozo: Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I think we had a lot of good discussion and I think a lot of questions came up. I was in the meeting the last time and I think it went pretty quickly because there were only a few Members here. We kind of just took a step back and said it was not by any means an affordable housing solution. It was probably an overlook for not amending that word out. But we basically said "what is this doing? Is it providing opportunity?" That is how we kind of rationalized it or how I rationalized it the last time. There were a lot of valid questions that came up. It would help me if the Department of Planning took into consideration what went on and maybe took a step back also and said, "What is our focus on this Bill? Is it for affordable housing or is it to increase the supply of the housing in the market?" Maybe kind of just regroup on it just hearing the concerns and kind of coming back, or discussing with certain Councilmembers what would you like to see in it? Then, maybe coming back with a product that is maybe a little more adjusted or fine-tuned. I can see us spending a lot of time on this and throwing out a lot of options, but what is our intent for this Bill and trying to focus on what is the intent and how we get there. If not, we are going to be trying to increase housing supply, do affordable packages, and redo the water, talking to the Board of Water Supply, and redoing rates. It can go all over the place and take forever. I mean, just for me, we need to get a little more refocused on what we are trying to do. It may help our Committee Meetings be a little tighter. Just from today's conversation, we heard a lot of things going on and I am just wondering how we are going to be able to tie it all back together.

Council Chair Rapozo: Okay. Is that it? Well, obviously I will be supporting the referral to the Committee. I guess I am just confused and maybe I have to go read up on minutes. If we want to fix the affordable rental problems here, then we need to provide affordable rentals. The way to do that is you incentivize that so that people will take advantage of building an affordable rental, and if not for those incentives, they would not. That is what incentives do, right? It changes behavior because you want a specific outcome. So you create the incentive. This incentive, and even with Councilmember Yukimura's potential amendment, if you are the landowner and you have an opportunity to pay the standard fees and charge fair market or pay a little reduced fee and be restricted to affordable housing, I still do not know how many people would take advantage of that because now you have this ability to charge market rent forever and ever and make your money and more. I am not sure that is going to work. The other possibility, if inventory is what we want to do, then fine. I do not have a problem with trying to incentivize inventory, but why only Līhu'e? If we want to get to that number of units to bring that supply and demand number closer together, why would you limit to Līhu'e? There is no way we are going to make up the numbers of needed units in just the Līhu'e area. So if the

goal is about affordable housing, which I am finding out now, then obviously that has to be taken out of the purpose. The second part is if we just want to give people incentives to build, build, build and you can charge what you want, then why keep only to tied to Līhu'e? I know plenty of people on the west side that would love for that opportunity. I know plenty of people in Kapa'a that would love that opportunity. Again, we are going to penalize certain areas because no, we believe it all should be in Līhu'e. If we are trying to boost inventory, would it not make sense to allow everybody to build extra units? I do not think it will affect the availability of affordable housing. I really do not. I do not think that is going to happen. I think as I look at Craigslist that I looked up today, a five hundred (500) square feet unit is one thousand two hundred seventy-five dollars (\$1,275), one thousand five hundred dollars (\$1,500), one thousand three hundred fifty dollars (\$1,350), and one thousand three hundred dollars (\$1,300). For a four hundred (400) square feet unit, it is nine hundred fifty dollars (\$950). For an eight hundred (800) square feet unit, it is one thousand four hundred dollars (\$1,400), one thousand four hundred dollars (\$1,400), and one thousand six hundred dollars (\$1,600). That is what is going right now. These are rooms and that is what we are going to have. So you are telling me you are going to build a nice, fancy cottage and charge nine hundred dollars (\$900) or one thousand dollars (\$1,000)? That is not going to happen. It all depends on what our priority is at that point. Again, the inventory obviously, supply and demand. Yes, if you can meet that demand, naturally prices will drop. But is the simple adjustments we are trying to do going to create that extra two thousand (2,000), or two thousand five hundred (2,500), or two thousand eight hundred (2,800) units? I do not know.

The one thing I have not heard...this County historically has always relied on the developer community. "Hey, you want to build this, build us this many homes" or now we are going to landlords and say, "Hey, you want to help us out? Here is some incentives. Go build some units." But what I have not seen is any attempt by the Administration to come across with some solutions as far as this County purchasing some land, this County going around and utilizing financing options that the County has to actually purchase lands to have some land available so an affordable housing developer could come in and make some money off of a project. We have not done that.

Councilmember Yukimura: We did that with Lima Ola.

Council Chair Rapozo: What?

Councilmember Yukimura: Lima Ola.

Council Chair Rapozo: Councilmember Yukimura, that land was purchased a long time ago. We will dump millions to expand parks. We will spend millions to do the recreational expansions and land acquisitions, but for affordable housing, which we all profess that is a priority, and today I find out it is really not a priority. We just want inventory. We do not really want to. Eighty percent (80%) and below, to me, is where we have to be if we want to help that segment of our community. Anyway, we have a motion to approve. I will just entertain a motion to refer.

Councilmember Yukimura moved to refer Bill No. 2627, Draft 1 to the July 13, 2016 Planning Committee Meeting, seconded by Councilmember Kualii.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: Is that enough time? I like Councilmember Kaneshiro's suggestion that the Department of Planning take a step back, give them some time to see what their end goal is. I am thinking least give them an additional two (2) weeks in addition to the to next week's Committee Meeting would maybe be more efficient for the Department of Planning. I am not just pushing it off. I am saying there is no sense in talking a lot about it and then we are going to wait for more answers or wait for them to refocus. I am just thinking that maybe we give them three (3) weeks. That is my suggestion.

Council Chair Rapozo:
Chock.

That would be the 27th. Councilmember

Councilmember Chock: I am okay with more time. I just think it was clear from what I heard today though that the Department sees this a certain way. I think the question actually is what do the people around this table want and what are they going to stand behind and do work on? If it is the affordable housing direction, then that is what we will focus on. Then we present it and then get some feedback from the Department of Planning on how it is they intend to help administrate it and make sure it is connected. I just wanted to make sure we were clear on where the work goes and if we need more time for the Department of Planning after that, yes, sure. We can continue.

Councilmember Kagawa: To answer, I am not a Planner. I did not work on the Līhu'e Plan or General Plan. They know what the Līhu'e Plan was trying to accomplish. I do not. The Līhu'e Plan said more inventory or more affordable housing. I do not know what the Līhu'e Plan said. I am just giving them more time to see what their focus is based on what the Council has...I think the Council has given some good questions and concerns. I do not know if there is any refocusing, but I am saying that we can go to next week and if the Department of Planning is not ready, then just tell us next week that they need more time to refocus or do some of what Councilmember Kaneshiro had advised. I think let us have a good plan coming from the Administration and Council in working together, not the Administration giving us this Bill and now we are raising these questions. I do not know if their focus is changing, but it seems like affordable housing is no longer there.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: If it is our job at this point, I am willing to work on amendments. But I think there is a lack of information and understanding in terms of what the Department of Planning's big picture is with this. I would like to have a discussion so the public also understands in terms of what they are trying to do at the Department of Water. I think having a meeting next week would be useful just information-gathering and then maybe deferring it so we can work on amendments, or they can work on amendments, or we work together with them on amendments.

Council Chair Rapozo: I would suggest referring it to next week as the motion was made, and having someone from Department of Water and the Department of Planning here because I agree.

Councilmember Yukimura: That would be good.

Council Chair Rapozo: I have this today and I heard it is basically he said/she said, or somebody said it passed. We really do not know. Have them here so they can explain the ramifications. I do not think it is very difficult to misunderstand what they are trying to say in this sheet. As I am reading it, I have a lot of questions and I do not think it is fair for Ka'āina to answer for them. If there is no objection, I think next week, if we can have the Department of Water here as well as the Department of Planning, and even the Housing Agency for that matter. Then after next week's meeting, my suggestion would be to defer it to the next Committee Meeting where amendments can be introduced because I think there is a lot of information that we are speculating or we are assuming. I am concerned that we are going to pass something like that. Again, the person with the ten thousand (10,000) square feet lot who is eligible for an ADU who can contribute just as much to this inventory or affordable housing issue on the island, they do not get a benefit. They do not get any benefit. They are not allowed. Anyway, we have to have a lot of discussion. If there is no objection, we will do that. Staff, make sure we get someone from the Department of Planning, the Department of Water, and the Housing Agency here for next week with the understanding that the amendments will be introduced in the following meeting on the 27th. Is that okay? Okay. Any further discussion? Go ahead.

Councilmember Yukimura: I will be circulating my amendment just for people to understand.

Council Chair Rapozo: If you are going to do that, you might want to do it here.

Councilmember Yukimura: Okay, yes.

Council Chair Rapozo: Because obviously...

Councilmember Yukimura: Yes, thank you.

Council Chair Rapozo: ...you cannot circulate it.

Councilmember Yukimura: Well, let us see.

Council Chair Rapozo: The motion is to refer. We are in discussion.

Councilmember Yukimura: I can just circulate it without making a motion to amend?

Council Chair Rapozo: Yes, but you need to do it here and the public would have access to a copy if they want.

Councilmember Yukimura: Okay. I am just to ask that it be circulated. Thank you.

Council Chair Rapozo: Thank you. Is there any further discussion? If not, the motion is to refer to next week's Committee Meeting.

The motion to refer Bill No. 2627, Draft 1 to the July 13, 2016 Planning Committee Meeting was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

Bill No. 2633, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 5A-11A.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE BENEFICIAL TAX RATE FOR PROPERTY USED FOR LONG-TERM AFFORDABLE RENTAL: Councilmember Kualii moved for adoption of Bill No. 2633, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you very much. Is there any discussion before we open it up to public testimony? Do we have any questions of the Administration? Are there any amendments? If not, I will suspend the rules. Can we have the first registered speaker, please?

Mr. Sato: We have one (1) registered speaker, Anne Punohu.

There being no objections, the rules were suspended to take public testimony.

Ms. Punohu: Aloha, Anne Punohu. Am I to understand that this has been approved already in the form that I am reading here?

Council Chair Rapozo: That is what we are voting on today, Anne.

Ms. Punohu: Has it been approved already as-written?

Council Chair Rapozo: I am sorry.

Ms. Punohu: Has it been approved already?

Council Chair Rapozo: The Committee has recommended approval.

Ms. Punohu: Okay, not on the whole, right? Okay. As to our previous huge discussion, long-term rentals are very important because we want to prevent transient rentals and high rents. However, as to my previous discussion and every millions of discussions I ever have in here about housing, is the median income is too high. You are going to accommodate people who are coming here from the mainland who have money. You are not going to be able to take care of the working class people who need the long-term housing because transient people do not need long-term housing. You are thinking about it and you should be thinking about the back of this island, which is the working class. If you are going to keep it at eighty percent (80%), it does not help. You need to lower the percentage. Please. Eighty percent (80%) is too high. That is just my main complaint. My second one is if you ask me, this Bill basically begs or really skirts the line or maybe even opens the door to rent control. I think it is absolutely needed on this island. As long as you keep the median income so high, you are allowing people to charge two thousand dollars (\$2,000) for a two (2) bedroom, which is average going price on Craigslist. It is ridiculous. I have seen two (2) bedrooms going for three thousand dollars (\$3,000) or four thousand dollars (\$4,000) and calling it a long-term executive rental or they

will be very specific about the kinds of people that they want in there. Again, I want to say, I fought for a bill to prevent discrimination in housing against HUD voucher holders. I have heard a lot of discussion in this room today about the standards of HUD. How can HUD and this County, in general, talk about the standards of HUD when they continue to allow discrimination in the open rental market against HUD voucher holders? HUD voucher holders continue to lose their HUD vouchers. They cannot find a rental in three (3) months. I need this Bill to help my people. The working class people need to be helped with this Bill because that is what this is supposed to be for. A long-term rental is for somebody who lives here, somebody who works here, somebody who has an investment in this community, and not somebody who just lands by a plane and decides they are going to make their (inaudible) life on Kaua'i, they are here, and let us roll out the red carpet for them. No. We need to stop this. We need to take care of our people. We need to lower that median. Lower it, please. But the concept is great though.

Council Chair Rapozo:
to testify?

Anne, hold on real quick. Anyone else wishing

Ms. Punohu:

I am *pau*.

Council Chair Rapozo:

Okay. You can come back, Anne.

TINA SAKAMOTO: Good morning. My name is Tina Sakamoto. I am glad I was here this morning to hear the discussion on Bill No. 2627, Draft 1 and the emphasis on the urgent need of affordable housing. The County has long-term affordable housing where it offers for the private sector to rent at an affordable rate specified by the program, and the incentive is to get a real property tax reduction. It is interesting to me to see that over the program, we have lost participants. Last year, we lost landlord private-sector participants in this program. Maybe one (1) of the reasons why is because for the last two (2) years, the allowable rents have been reduced. So that is in no way an incentive when insurance, maintenance costs, and real property taxes are up because the assessment values are increasing. This is in addition to existing mortgage. Is it really reasonable to offer a program without realistic incentives? Councilmember Yukimura had mentioned in the prior bill going to one hundred percent (100%)? Why would you go to the one hundred percent (100%) tier if you are only offering in your own county program, an eighty percent (80%) tier? I think you should consider for this program to go to the one hundred percent (100%) tier. That way you will probably at least maintain your existing affordable housing rental stock. I think it is also important to review annually and to put a lot of effort not only the methodology, but the allowable rents in order to have a successful long-term affordable housing program. So nothing is going down. I think you should really consider some type of increase in order to have landlords participate in this long-term affordable housing, not the Section 8, or not to subsidize at eighty percent (80%) because that is geared for low rents for elderly and disabled. We are talking about this program, which is long-term affordable rental housing. Thank you.

Council Chair Rapozo: Thank you. Anyone else wishing to testify? If not, while the rules are suspended, Ken, can I ask you a real quick question? I am not sure if you are able to answer it. It might be for you. Do we have a record of number of the participants in this program year-to-year?

KEN M. SHIMONISHI, Director of Finance: Ken Shimonishi, Director of Finance. Yes, we do. In the past year, we had one thousand two hundred (1,200) participants. That was inclusive of an additional forty-four (44) that came on after Council extended the exemption deadline to December 31st and we kept the 2015 rent levels. Instead of going down, we kept it the same. The year before, I believe it was roughly a little over one thousand three hundred (1,300), one thousand three hundred two (1,302). There was a decrease. I am not sure about the numbers prior, whether it goes up and down depending on market and obviously what the landlords can get for their properties.

Council Chair Rapozo: It is fair or accurate to say that in last two (2) years, there is a trend of participant numbers dropping?

Mr. Shimonishi: I would say I think within the last three (3) years there have been a continued declining trend. Again, I think you are correct, Council Chair Rapozo, that this is probably something better addressed with the Housing Agency as far as the rent levels, the cause, and all of the economics that go behind it.

Council Chair Rapozo: I think Tina explained the cause. That is probably indisputable that the fact that the cost to maintain a rental because of increasing costs.

Mr. Shimonishi: If I could, Council Chair Rapozo, one of the things I wanted to point out was that at the last Council Meeting, I know there was talk about using a different methodology, a different scale, to try to adjust the numbers in order to participate in this program. Just so that the Council is mindful that the exemption deadline is coming up September 30th for all exemptions excluding agriculture. But if we are passing an ordinance now to assume the 2015 rent levels, then any changes after that could have impacts where if somebody is filing for the application now, but later on we make the change. So we would ask that the change be in the subsequent year, meaning September 30th of 2017 if we are changing the rent level or the methodology by which participants participate in the program.

Council Chair Rapozo: Okay. This would be fine?

Mr. Shimonishi: Right.

Council Chair Rapozo: 2015 would be okay? We would be able to implement and do it. But if we went to some other methodology, you are asking it to be postponed?

Mr. Shimonishi: Correct.

Council Chair Rapozo: It would be better to just go ahead and at least move this out, fix your website so the people will know, right, with the 2015 numbers, and then work for something for the next year?

Mr. Shimonishi: Correct, because otherwise you have two (2) different rent levels with within the same year and someone would say "I applied this time and got this based on what was in effect, but now you have changed the rules so to speak."

Council Chair Rapozo: Got it. Councilmember Yukimura, do you have a question?

Councilmember Yukimura: Yes. Well, I think you are just saying that there was talk last time about using new approaches and if we do, we just do not want to apply it to next year because the deadline is September?

Mr. Shimonishi: Correct, and obviously there needs to be a lot more input from the Housing Agency and analyses of what that methodology or rent level is set at.

Councilmember Yukimura: If we do any further work on this particular section of the law or the Code, we should do it for future tax years, not for this year?

Mr. Shimonishi: Correct. Right

Councilmember Yukimura: Alright. I think that is very wise advice. Thank you.

Council Chair Rapozo: Are there any other questions for Ken? If the not, thank you.

Councilmember Yukimura: Oh, yes.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: Can you send us the data or maybe you gave it to us already that shows us the drops and different things that happened to try to address it? You said it went from one thousand three hundred (1,300) to...

Mr. Shimonishi: Maybe the last three (3) years?

Councilmember Yukimura: It has only been in effect for about what, four (4) years?

Council Chair Rapozo: It would have been three (3) years probably.

Mr. Shimonishi: I can check with Real Property Tax.

Councilmember Yukimura: Ever since it has been in effect would be interesting if you have that data, because you do not think it is been in effect that long.

Mr. Shimonishi: Okay.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Thank you, Ken. Anyone else wishing to testify? If not, we will call the meeting back to order. Is there further discussion? Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Thank you, Council Chair Rapozo. This issue was brought up three (3) years ago. I remember one (1) of the workers at the Transfer Station brought it up to me and told me about what was happening and that he was watching the meetings. He said, "If I have to reduce my rent, then we are going to drop out because we like this tenant and we want to take care of this tenant. But where do you see deflation with rental market? That was the expectation. If you want to remain in the affordable housing, to get that tax credit, then you have to actually reduce your rent. We had Councilmembers here saying "if we do not follow the guidelines, we are going to be hurting the affordable people." But do you know what we did with that person? I just saw him again just the other week and I said, "We are going pass a Bill right now." He said, "No. Once I got out, what happened was I told my tenant I was going to raise it, they moved out," and they have a new tenant that is paying the market rent. What we did was we actually kick out an affordable renter. Whoever made the statement about "if we do not follow, we are going to hurt them," well, the real-life story about that is we should have listened to the public and we should have not listened to the Administration's recommendation that deflation is acceptable and that it would not hurt the program because what it did was it actually hurt people out there. It kicked out people. I think sometimes we listen to the Administration, yes. But in that case, that was bad advice because we have to look at the commonsense theory. Are rents expected to go down in this market that we have? It is not realistic. It is not at all. It is only going to go up. When we say "Well, let us try to follow the federal guidelines and it goes down," I will never listen to that advice from the Administration again. That is poor, not practical logic, and it really hurt people out there. So whatever we can do to try and increase the number of the affordable rents. We are only talking about three dollar (\$3) difference in the tax rate. If that rental unit is worth three hundred thousand dollars (\$300,000), the difference in three dollar (\$3) is nine hundred dollars (\$900). When you talk about rents from renting for one thousand five hundred dollars (\$1,500) to two thousand dollars (\$2,000), it is a lot easier for the person if he can find the available renters at two thousand dollars (\$2,000) to just rent at two thousand dollars (\$2,000) and forget it. A lot of times we act like the three dollars (\$3) is a big deal, but actually the big deal is how much the tenant pays each month. That is the big deal. If they are paying one thousand dollars (\$1,000) or one thousand five hundred dollars (\$1,500), that means a lot more to them then the taxpayer paying three dollars (\$3) more on their market value. I think we just have to be really careful and the commonsense things like expecting renters in the program to be okay with reducing their rent and not affecting the program, to me, is just totally inaccurate. I wish we could have played that part back because the Administration really missed the mark with their statements at that time. Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: This Bill does exactly what I think Councilmember Kagawa is talking about. It does not allow the rents to go down. It does not follow HUD. We are setting it at last year's so that we can keep the rents stable. I think we are all in favor of that. I want to thank Tina Sakamoto who has just been so conscientious about this issue because she knows how many people are being affected by it and I want to thank Council Chair Rapozo for introducing the Bill. I think Tina's point about raising it to one hundred percent (100%) of the median

income means that there is a possibility, and that is what I hope we will address in the future that the landlords will raise their rent to the one hundred percent (100%) median and that some of the people lower will have a problem. So it is a tricky thing. I think our goal is really clear about trying to make more affordable rental units available, and I am very happy to vote for this Bill and very grateful to the people who caused its introduction.

Council Chair Rapozo: Thank you. Are there any other comments?
Ken.

There being no objections, the rules were suspended.

Mr. Shimonishi: Ken Shimonishi, Director of Finance. In terms of number of participants, in Fiscal Year 2014, there were nine hundred thirty (930) participants; in 2015, one thousand three hundred three (1,303) participants; and in 2016, one thousand two hundred (1,200) participants. So it did go from nine hundred thirty (930) participants up to one thousand three hundred three (1,303) participants, and then a slight decline.

Council Chair Rapozo: That was probably attributed to the extension of time, right?

Mr. Shimonishi: The extension of time happened for the one thousand two hundred (1,200) participants.

Council Chair Rapozo: Oh, okay.

Mr. Shimonishi: The last year.

Councilmember Yukimura: It is still significant.

Mr. Shimonishi: Yes.

Council Chair Rapozo: Thank you, Ken. It is a silly question, but I have to ask. Do we try to find out why they left the program? I do not expect you to.

Mr. Shimonishi: Not to my knowledge, no.

Council Chair Rapozo: Just thinking out loud, if we could send I do not know, twenty (20) or thirty (30) or do a random mail out with a real brief questionnaire with some multiple choice questions of why they left the program just so we can get an idea, if that is possible?

Mr. Shimonishi: Okay, thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to concur with that request. I think having good data would really help us make policy. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any other discussion? No? Okay. Let me just say I think when we look at the affordable housing issue, and I want to echo Councilmember Yukimura's recognition of Tina Sakamoto because she has been a wealth of information. She has done a lot of research and she is in community a lot. She has spoken to those landlords that have left the program. She has spoken to the landlords that are thinking about leaving the program. I think that is a valuable resource. Thank you, Tina. This is a multi-pronged approach. I agree that we need to move this up to one hundred percent (100%), but we cannot move this to one hundred percent (100%) until we have another program in place that will take care of the lower income. We cannot abandon those people because moving this to one hundred percent (100%), I believe, we may even get more participants, yes, as far as landlords/owners, but we would lose or potentially lose a lot of people that need housing. We have to be able to offer that segment some relief as well whether it is in the way of a much larger tax break or some kind of incentive. We talk about stakeholders and that is why I asked Ka'aina earlier who he met with. No offense to the professional contractors and realtors, but the stakeholders are the people that are affected by the program. Those are stakeholders too. To just talk to one (1) side to validate your position is not a true and accurate discussion. Stakeholders is everybody. If I am sitting as the Housing Agency or even Ken listening to this, I would definitely ask Tina and Anne to participate in the discussions because they have been there, done that. I think that is where we get the best information. My point is that it is multi-pronged. The discussion that we had earlier today addresses inventory. Yes, if we are going to address inventory and we have the tax breaks for the one hundred percent (100%) and if we have programs for the eighty percent (80%) and below, then I do not have a problem supporting an inventory bill. But I do not want to support an inventory bill, call it an affordable housing bill, and do not impact affordable housing. I think this will at least keep the people in the program. This will help keep the people in the program. Again, with the costs increasing, I do not know if it is good enough, but I think it is best that we can do right now. I think that we have to start working on some measures and incentives to even add to the affordable housing participants in all income levels. So that is the challenge for us. I see Councilmember Yukimura thinking hard already about how we are going to do that. Really, it is a difficult balance, but we cannot move the scale up to one hundred percent (100%) and let the eighty percent (80%) and below fall off. Then they become another statistic, near homeless or houseless or crowding, and all of that is a byproduct of lack of affordable rentals. I look forward to that discussion. The motion is to approve. Is there any further discussion? If not, roll call.

The motion for adoption of Bill No. 2633, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro,	
	Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato:

Seven (7) ayes.

Council Chair Rapozo: Thank you very much. That concludes today's formal agenda. We will reconvene at 1:30 p.m. for a public hearing. At this point, the meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:25 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S.K. Sato", with a stylized flourish at the end.

SCOTT K. SATO
Deputy County Clerk

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